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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 851/2024**

ARSHAD

.....Petitioner

Through: Mr. Akshay Bhandari, Mr. Anmol Sachdeva, Ms. Megha, Mr. Kushal Kumar and Mr. Janak Raj, Advocates.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Ms. Richa Dhawan, APP for the State with SI Priyank Rana, PS Daryaganj.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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06.08.2024

BAIL APPLN. 851/2024 (for Regular Bail) & CrI.M.A. 14686/2024

1. The Bail Application under Section 439 of the Code of Criminal Procedure, 1973 read with Section 482 of CrPC, has been filed on behalf of the petitioner, who is in judicial custody since 26.03.2022, seeking Regular Bail during the pendency of the trial in FIR No. 152/2022, for the offence under Sections 21/29/61/85 of the NDPS Act, registered at Police Station Daryaganj.
2. According to the prosecution, on receipt of secret information on 25.03.2022 that Arif Khan was coming from the Mahavir Vatika along with drugs, he was apprehended in the raid so organized and 350 gms of Smack was recovered from his possession. Co-accused persons, namely, Salman



and Naeem, were also found at the spot and were arrested, on the allegation that they had come there to collect the contraband and sell it on the commission basis. Further, the CDR of the main accused Arif Khan, the co-accused, Parvez was collected. Thereafter, they were arrested on 26.03.2022. The allegation was that the present Applicant Arshad had obtained the contraband from Uttar Pradesh and delivered it to Parvez, who further gave it to the main accused Arif.

3. The Bail is sought on the ground that the only evidence against the petitioner is the conversation on three phone calls between the applicant and the main accused, Arif. The CDR details cannot be a ground to deny bail as has been held in the case of Mehboob Khan vs. State (Bail Appl. 2474/2023); Phundreimayum Yas Khan vs. State (NCT of Delhi), 2023 SCC Online Del 135; Michael Mmadueke Onyenwaro vs. NCB (Bail Appln. No. 2275/2022); Tofan Singh vs. State of Tamilnadu, (2021) 4 SCC 1 and Shamim Ahmed vs. NCB (Bail Appln. 2840/2023).

4. It is further submitted that there is no recovery of contraband from the petitioner.

5. Along with the present Bail Application, an application i.e. CrI.M.A.14686/2024 under Section 482 of CrPC has also been filed on behalf of the petitioner, to clarify that he had filed an earlier Bail Appln. No. 1058/2023, seeking Regular Bail, which had been dismissed by this Court *vide* Order dated 05.04.2023.

6. It is further submitted that thereafter, the co-accused, namely, Naeem, Salman and Arif, have already been granted bail. In the chain of circumstances, the present second Bail Application has been filed before this Court by the petitioner seeking regular Bail.



7. **Learned APP for the State**, has submitted that petitioner got the drugs from the source and delivered it to Parvez, from whom Arif had taken the drugs who was found in possession of 494 grms of Smack. Looking at the role of the petitioner, the Bail is opposed.

8. **Submissions heard.**

9. Main accused Arif, who was found in possession of Smack and the other two accused persons who have been found on the spot, have already been granted bail. Even Parvez has been granted bail by the learned ASJ. Considering that the four above mentioned co-accused have been granted bail, even though the role of the present petitioner is that of a carrier, in the totality of the circumstances, the petitioner is admitted on Regular Bail, on the following conditions:-

- a) The petitioner shall furnish a personal bond of Rs.25,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court/Successor Court/Duty Magistrate.
- b) The petitioner shall appear before the Court as and when the matter is taken up for hearing.
- c) The petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number, without prior intimate to the Investigating Officer concerned.
- d) The petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
- e) The petitioner shall not leave the country, without permission of this Court.
- f) The petitioner shall not change his residential address and in



case of change of the residential address, the same shall be intimated to this Court, by way of affidavit.

g) The petitioner shall not threaten the witnesses and shall not tamper with the evidence.

10. The Petition along with the pending application, are disposed of accordingly.

11. A copy of this order be sent to the concerned Jail Superintendent, for the information and compliance.

NEENA BANSAL KRISHNA, J

AUGUST 6, 2024/RS