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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1241/2024**
SALMAN

.....Petitioner
Through: Ms. Sushma Sharma, Mr. Girish
Sharma, Mr. Dhruv K. Sharma, Ms.
Aayush Gaur and Mr. Sahil,
Advocates.

versus

THE STATE (NCT OF DELHI)

.....Respondent
Through: Ms. Richa Dhawan, Ld. APP for the
State with SI Shakti, P.S. Daryaganj.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER
22.07.2024

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1. A Bail Application under Section 439 Cr.P.C read with Section 482 Cr.P.C has been filed on behalf of accused/ petitioner Salman.
2. It is submitted that as per the prosecution case the present petitioner Salman was caught along with Arif Khan and other accused persons. On search, one coloured polythene containing 340gm smack was recovered from Arif Khan, while no drugs were recovered from the present accused Salman or the co-accused Naeem Ahmed. They were arrested and the subsequently the Charge sheet has been against all the accused.
3. The first bail application before the Trial Court was dismissed vide Order dated 17.08.2023. A regular bail filed before this Court was also



dismissed on 22.12.2023. It is submitted in the bail application that the co-accused Naeem who had the same role as the present accused, was granted bail on 28.02.2024 by the Supreme Court. On parity, the bail is claimed by the present accused. It is submitted that nothing was recovered from the possession of Naeem, rest is a matter of trial. Hence, the regular bail may be granted.

4. Learned Prosecutor on behalf of the State submits that the earlier bail application filed on behalf of the petitioner has already been dismissed vide Order dated 22.12.20023. The accused is a part of larger conspiracy of acquiring and selling the drugs. Considering the gravity of the offence, the bail is opposed.

5. **Submissions heard.**

6. Admittedly, the accused Salman along with Naeem were caught on the spot along with one Asif from whose possession 340 gms of smack was recovered. No recovery of any drugs was made from this accused and Naeem. The co-accused Naeem has already been granted bail by the Apex Court vide Order dated 28.02.2024 by observing as under :

“9. It is a seriously debatable question of fact whether the appellant was also found in the conscious possession of the contraband (smack). But such a question of act will obviously be determined by the Trial Court at an appropriate stage. That being so, it seems to us that as of now, the twin test of Section 37 of the Act, need not be invoked against the appellant.”

7. The role of the petitioner is in parity with co-accused Naeem.

8. In the totality of circumstances the petitioner is granted regular bail



subject to furnishing of personal bond in the sum of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/ concerned Court/Duty M.M. and subject to the following further conditions:-

- i) The applicant shall not leave the NCR without prior intimation to the I.O.
 - ii) The applicant shall provide his mobile number to the Investigating Officer on which, he will remain available during the pendency of the trial.
 - iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
 - iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
 - v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.
9. The bail application is disposed of in the above terms.
10. Copy of the order be communicated to the learned M.M. and the concerned Jail Superintendent electronically for information.

NEENA BANSAL KRISHNA, J

JULY 22, 2024/va