



\$~7

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

+ **BAIL APPLN. 1449/2024**

RAFIQ

.....Petitioner

Through: Ms Nitu Prakash, Advocate.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for the State
with SI Ram Chander, PS Tilak Nagar

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

04.07.2024

%

1. This petition is filed seeking regular bail in FIR No.95/2021 PS Tilak Nagar under sections 20/25/29 of Narcotics Drugs and Psychotropic Substances Act, 1985(**“the Act”**); the date of arrest is 24th February 2024. Charge-sheet and supplementary charge-sheet have been filed. As per the Nominal Roll on record, over all jail conduct of petitioner is satisfactory,
2. The case of prosecution is that recovery was effected from one Gulshan of 15.2 gm of *ganja* on 8th February 2021 and on 9th February 2021, Gulshan, in his disclosure statement, disclosed that he had procured the said material from one Tahir. Subsequently, Tahir was arrested and as per his disclosure statement, his brother Rafiq, petitioner herein, had arranged for the contraband.
3. Petitioner was initially declared an absconder on 15th February 2024 and later he moved an application under Section 438 of Code of Criminal



Procedure, 1973 (“Cr.P.C.”), seeking anticipatory bail which was dismissed on 24th February 2024, and was thereafter sent to Judicial Custody (“JC”) on the same date.

4. It is an admitted position that there is no recovery from Rafiq and he has been arrested only on the basis of disclosure statement of Tahir. The judgment of the Supreme Court in ***Tofan Singh v. State of T.N.***, (2021) 4 SCC 1, is instructive in this regard.

5. 15.2gm of *ganja* recovered from petitioner falls within the threshold of ‘*intermediate quantity*’ under the Act.

6. Further, both Tahir and Gulshan have already been enlarged on bail *vide* order dated 4th January 2023.

7. Accordingly, no purpose would be served by keeping petitioner in custody, both on ground of parity, as also in light of the fact there is no seizure from him.

8. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
- ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an



affidavit and to the IO regarding any change in residential address.

iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.

iv. Petitioner shall join investigation as and when called by the IO concerned.

v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.

vi. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.

9. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

10. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

11. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.

12. Order be uploaded on the website of this Court.

ANISH DAYAL, J

JULY 4, 2024sm/kp