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

+ **BAIL APPLN. 1536/2024**

KISHAN

.....Petitioner

Through: Mr. Shubham Prajapati, Adv.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Mukesh Kumar, APP for the
State with SI Rahul Kumar, PS
Adarsh Nagar.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

03.10.2024

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1. This application has been filed by the Applicant under Section 438 Cr.P.C. for grant of anticipatory bail in case FIR No. 138/2024, dated 29.02.2024 under Sections 21/61/85 of NDPS Act, 1985 registered at PS: Adarsh Nagar.
2. Learned counsel for the petitioner submits that no recovery has been affected from the petitioner and his name has appeared only disclosure statement. Learned counsel submits that in terms of the order of this Court, the petitioner has already joined the investigation. Learned counsel submits that therefore petitioner may be admitted to anticipatory bail.
3. The petition has been opposed by the learned APP for the State. Learned APP for the State submits that the petitioner apart from this case, is involved in 9 cases. Learned APP submits that in this case



also the petitioner initially avoided to join the investigation and NBWs were issued against the petitioner.

4. In ***Union of India v. Ram Samujh*** 1999 Supp(2) SCR 76, the Supreme Court highlighted the strict conditions required for granting bail under the NDPS Act, with a particular focus on Section 37. The Court recognized the grave nature of drug-related offenses and the widespread harm they inflict on society, especially through drug trafficking. Acknowledging the devastating impact these crimes have on communities, the Court emphasized that the law must be applied rigorously to uphold the legislative intent behind the NDPS Act. As a result, the Court denied bail, reinforcing the principle that serious drug offenses demand a higher standard for bail to ensure public safety.
5. In ***Narcotics Control Bureau v. Mohit Aggarwal*** 2022 SCC OnLine SC 891, the Supreme Court highlighted the stringent conditions for granting bail under Section 37 of the NDPS Act, especially in serious cases involving drug trafficking. Given the gravity of the charges, including conspiracy, the Court emphasized that these offenses require careful and strict consideration before bail can be granted.
6. The Court considers that in the NDPS cases which has a rigor of Section 37 of NDPS Act, the jurisdiction of anticipatory bail cannot be exercised. Under the conditions as prescribed under Section 37 of the Act, the Court is required to record that it is satisfied with the twin conditions i.e. reasonable ground for believing that the accused is not guilty of such an offence and that the accused would not commit an offence or is not likely to commit an offence, if granted bail.



7. Learned APP for the State submits that the State is contemplating to invoke Section 29 of NDPS Act. The Court considers that in such cases, the custodial interrogation is necessary to unearth the conspiracy, if any.
8. In the given circumstances it is considered that the petitioner is not entitled to anticipatory bail, hence, dismissed.
9. The present application is disposed of.

DINESH KUMAR SHARMA, J

OCTOBER 3, 2024

Pallavi/KR