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

+ BAIL APPLN. 1560/2024

DAULAT KHANPetitioner

Through: Mr. Vikas Gautam, Adv.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for the State
Insp. Yakub Khan PS NDRS

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+ BAIL APPLN. 1579/2024

MOHD ATHIQPetitioner

Through: Mr. Vikas Gautam, Adv.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for the State
Insp. Yakub Khan PS NDRS

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

12.07.2024

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1. These petitions are filed seeking regular bail in FIR 16/2024 PS New Delhi Railway Station lodged under Section 9A/25A/29 NDPS Act. The arrest was on the basis of interception of petitioners at New Delhi Railway Station at Paharganj side on 13th February 2024.

2. The police team, on suspicion two people carrying two bags,



intercepted them and found pseudoephedrine, a controlled substance, in their bags which was later found to be about 9.152 kg and 9.294 kg respectively. The same were seized and FIR was registered.

3. Status report mentions that petitioners disclosed that one Abdul Wahid had given the same to them for supplying the same in Chennai.

4. Counsel for petitioners states that there was no CCTV footage from railway station in which petitioners were seen carrying bags, as well there is no search and seizure proceedings which were undertaken and that the substance is a controlled substance and does not invite rigours of Section 37 of the NDPS Act.

5. For this he relies upon judgment dated ***Hakim v. NCB*** Bail App.2257/2019 order dated 8th November 2019 passed by a Coordinate Bench of this Court, relying on ***Niranjan Jayantilal Shah v. DRI*** (2013:DHC:5910) and ***Ajay Aggarwal v. NCB*** (2005:DHC:3466) where it has been categorically held that bars of Section 37 are not attracted in cases where controlled substance is within the meaning of Section 2 (vii) (b) of the Act.

6. APP for the State does not dispute the point of law but states that period of incarceration is only 5 months since they were arrested in February 2024 and charges have to be framed and charge sheet is to be filed, and CCTV footage was obtained from the hotel where the petitioners were seen with Abdul Wahid looking at the bags.

7. It is further informed that Abdul Wahid and Nasir, the other co-accused are absconding and warrants have been issued against them.

8. In totality of facts and circumstances, considering that Section 37 NDPS rigors do not apply, and charge sheet has been filed, no purpose would be served in keeping petitioners behind bars.



9. 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.

10. 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.

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

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

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

ANISH DAYAL, J

JULY 12, 2024/sm