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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2222/2023

SAFIQUE AHMAD

..... Applicant

Through: Mr.Faraz Nabi, Mohd. Nadeem,
Ms.Razia, Mr.Gyasuddin
Ansari, Advs.

versus

STATE NCT OF DELHI

..... Respondent

Through: Mr.Aman Usman, APP with SI
Ravi Parkash.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

12.01.2024

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1. This application has been filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.'), seeking release of the applicant on regular bail in FIR no.0274/2022 registered at Police Station: Hazarat Nizamuddin, under Sections 21/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, 'NDPS Act').
2. It is the case of the prosecution that on 10.09.2022, on a secret information received, a raid was conducted at Dhuna MCD Park, Nizamuddin, Delhi. On pointing out by the informer, the applicant was apprehended by the police team and a contraband of 11 grams of smack was recovered from him.
3. The learned counsel for the applicant submits that the applicant has been in custody since 10.09.2022. He submits that the alleged recovery made from the applicant is, in fact, planted on him. He further submits that the quantity allegedly recovered from the



applicant is also not a commercial quantity and is an intermediate quantity and, therefore, rigors of Section 37 of the NDPS Act will not apply.

4. He has also placed reliance on the order dated 31.01.2023 passed by a Co-ordinate Bench of this Court in BAIL APPL. 3655/2022 titled as ***Gajender Bahadur v. The State Govt. of NCT of Delhi***, to submit that in almost similar circumstances, this Court had enlarged the accused therein, on bail.
5. On the other hand, the learned APP submits that the applicant was found in possession of the narcotic substance and is also involved in other cases, including one under the NDPS Act, and hence the applicant should not be enlarged on bail, as there is every likelihood that he would commit the similar offence again, if released on bail.
6. I have considered the submissions made by the parties.
7. As per the Nominal Roll, the applicant has already undergone custody for 1 year, 3 months and 28 days as on 08.01.2024. The Charge Sheet already stands filed and the trial is likely to take long. The Nominal Roll also shows that there is one more case pending against the petitioner under Sections 394/397/325/34 of the Indian Penal Code, 1860, however, there is no mention of any case under the NDPS Act.
8. In view of the above, the applicant is directed to be released on bail in FIR no.0274/2022 registered at Police Station: Hazarat Nizamuddin, under Sections 21/61/85 of the NDPS Act, on furnishing a personal bond in the sum of Rs.25,000/- (Twenty



Five Thousand Only) with one surety of the like amount subject to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. Applicant will not leave the country without the prior permission of the learned Trial Court.
- ii. Applicant shall provide his permanent address to the learned Trial Court. The applicant shall intimate the learned Trial Court, by way of an affidavit, and to the Investigating Officer (IO) regarding any change in the residential address.
- iii. Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the Ld. Trial Court and the IO concerned. The mobile location be kept on at all times.
- v. Applicant shall report before the concerned IO every 15 days.
- vi. Applicant shall not indulge in any criminal activity while being released on bail. In case the applicant is found to be involved in any other case henceforth, it will be open to the respondent to seek cancellation of the bail granted.

9. Needless to state, 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. The Bail Application is disposed of in the above terms.
11. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.
12. Copy of this order be given *dasti* under the signatures of the Court Master.

NAVIN CHAWLA, J

JANUARY 12, 2024
RN/SS

Click here to check corrigendum, if any