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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 1654/2024, CRL.M.(BAIL) 788/2024 & CRL.M.A. 14375/2024**

HANUMANTE KALIRAMAN Applicant

Through: Mr. Amit Sahni, Mr. Ankur, Mr. Parth Sharma, Mr. Vaibhav Mishra & Ms. Sonali Tiwari, Advs.

versus

STATE (GNCTD) Respondent

Through: Mr. Yasir Rauf Ansari, ASC for the State along with Adv. Vivek Gupta, Adv. Ankush Kumar, Adv. Sajan & Adv. Mohit. SI Satender Kumar, NR-II/ Crime Branch.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

% **ORDER**
22.05.2024

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1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 seeking grant of regular bail in FIR No. 46/2024 dated 27.02.2024 under Sections 20/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) registered at Police Station Crime Branch.

2. The applicant along with the co-accused Adnan Ahmed was apprehended on 26.02.2024, pursuant to the raid conducted, on the basis of a secret information. The contraband (*charas*) weighing 200 grams was recovered from the possession of the

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applicant and 150 grams of *chharas* was recovered from the possession of the co-accused Adnan Ahmed.

3. It is not in dispute that co-accused Adnan Ahmed was granted bail by the learned Trial Court by order dated 05.04.2024. It was noted that the bar of Section 37(1)(b) of the NDPS Act is not applicable since the recovery from the co-accused was not of commercial quantity. It is not disputed that the quantity of contraband recovered from the applicant is also intermediate and is not commercial.

4. The learned Additional Standing Counsel for the State has sought to distinguish the role of the applicant with that of the co-accused by stating that the car in which the accused persons were travelling belong to the applicant and also that the applicant was in touch with another accused who has not been apprehended as yet who is alleged to have supplied the contraband.

5. The same in the opinion of this Court will not dis-entitle the applicant to claim parity with the co-accused Adnan Ahmed. Chargesheet in the present case has already been filed.

6. The applicant is stated to be involved in one another case being registered under Section 423 of the Indian Penal Code, 1860 (IPC). The same has nothing to do with the present FIR being registered under the NDPS Act and cannot be a ground to dis-entitle the applicant for an order of bail.

7. It is not in dispute that only because the recovery of the contraband is of intermediate quantity will not be *ipso facto* entitle the applicant for grant of bail. The application is still have to be considered on its on merits, *albeit* without the bar of Section 37 of NDPS Act.

8. Once the co-accused from whom the recovery of the contraband of similar quantity, being intermediate, has already

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been granted bail and the said order has not been challenged by the State, it cannot be said that the applicant is not entitled to an order of bail on parity.

9. The charge sheet in the present case has already been filed and the applicant is no longer required for custodial interrogation. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment.

10. The applicant cannot be made to spend the entire period of trial in custody specially when the trial is not likely to conclude in near future, therefore, no purpose will be served by keeping the applicant in further incarceration. Any chance of the applicant fleeing from justice or tampering with evidence can be taken care of by putting appropriate conditions.

11. In view of the above the present application is allowed and applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹50,000/- with one surety of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. He shall appear before the learned Trial Court on every date;
- c. He shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- d. He shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile

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phone switched off at all times.

12. In the event of there being any FIR/ DD entry/ complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

13. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the Trial and also not be taken as an expression of opinion on the merits of the case.

14. The bail application is allowed in the aforementioned terms.

15. Pending applications also stand disposed of.

AMIT MAHAJAN, J

MAY 22, 2024

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