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

+ **BAIL APPLN. 1727/2024**

**PUNEET GUPTA**

.....Petitioner

Through: Mr. Rahul Sharma, Mr. Kshitij Goel,  
Ms. Ankita, Mr. Abhishek Singh, Mr.  
Rajesh Sehgal, Ms. Divya Sharma,  
Mr. Praveen Kumar Jain, Mr. R.  
Rama, Mr. Lokesh Kumar Gurjar and  
Mr. Brajesh Kumar Mishra,  
Advocates.

versus

**NCB (DELHI ZONAL UNIT)**

.....Respondent

Through: Mr. Utsav Singh Bains, SPP with Mr.  
Satyendra Yadav, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE MANOJ KUMAR OHRI**

**ORDER**

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**18.07.2024**

1. By way of the present bail application, the applicant seeks regular bail in Criminal Complaint No. VIII/05/DZU/2022 registered under Sections 8(c)/22(b)/23(b)/27A/29 of the NDPS Act.
2. Learned counsel for the applicant contends that the applicant has been in judicial custody since 20.01.2022 and till date only charge-sheet has been filed, however, the charges have not been framed. He further submits that prosecution have cited total 15 witnesses and trial is likely to take a long time.
3. On merits, it is further stated that on the parcel received from the Foreign Post Office, though the petitioner has been named as the consignor,



however the address is that of the co-accused. It is further stated that it was the wife of the co-accused in whose account money was received and that she has already been released on regular bail vide order dated 26.04.2024 passed in Bail Appln. 2664/2023.

4. Learned counsel for the applicant has further placed reliance on the decisions in Tinku Tagadgiri v. State of Odisha passed in SLP (Crl) 12844/2023, Jitendra Jain v. Narcotics Control Bureau reported as 2022 SCC OnLine SC 2021 and Rabi Prakash v. State of Odisha reported as 2023 SCC OnLine SC 1109 to submit that even in cases of commercial quantity, considering the length of incarceration and the fact that the trial is yet to begin or that the same would take a long time, accused persons have been granted the benefit of bail.

5. The bail application is vehemently opposed by learned SPP who states that on suspicion, a parcel was seized from the Foreign Post Office, and the sender of the parcel was found to be the present applicant. He further submits that in the parcel, 1000 tablets of *Lorazepam*, 520 tablets of *Zolpidem* and 500 tablets of *Tramadol* were found, weighing a total of 304.4 grams. He further submits that chats retrieved from the mobile phone of the accused persons indicate involvement of the present petitioner. He further submits that as per the prosecution case, the accused persons have conspired to solicit clients for selling the NRX tablets. He further submits that Section 27 (A) is attracted and rigors of Section 37 NDPS Act would apply in the present case.

6. In Jitendra Jain v. Narcotics Control Bureau reported as **2022 SCC OnLine SC 2021**, while considering a case where the accused had undergone custody of more than two years, the Supreme Court observed as



under:-

"xxx

*3. Though it is a case of commercial quantity and allegations levelled against the petitioner are serious in nature, but having regard to the fact that he is in custody for 2 years and conclusion of trial will take time, we are inclined to release the petitioner on bail.*

*4. The petitioner is , accordingly, ordered to be released on bail, subject to his furnishing bail bonds to the satisfaction of trial court.*

xxx”

7. Again in Rabi Prakash v. State of Odisha reported as 2023 SCC OnLine SC 1109, where the accused had remained incarcerated for more than three and a half years, the Supreme Court while releasing the applicant on bail observed that:-

*4.. . The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(J)(b)(ii) of the NDPS Act.*

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*6. Consequently, while directing that the petitioner shall be released on bail on his furnishing bail bonds to the satisfaction of the Trial Court ...*

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8. More recently in Man Mandal and Anr. v. State of West Bengal reported as 2023 SCC OnLine SC 1868, while taking into account continued



custody of more than two years, the accused was granted bail. The relevant observations are extracted hereunder:-

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*5. Learned counsel appearing for the State submitted that in view of the statutory restrictions under Section 37 of the NDPS Act and the quantity being commercial in nature, the present special leave needs to be dismissed. 6. Taking into consideration the fact that the petitioners have been incarcerated for a period of almost two years and the trial is not likely to be taken up for hearing in the immediate near future, we are inclined to grant bail to the petitioners.*

*7. The petitioners are directed to be released on bail in connection with aforesaid FIR, on such terms and conditions as may be imposed by the Trial Court.*

*xxx"*

9. Admittedly, the case is still at the stage of framing of charge. The charge sheet was filed on 10.06.2022 and even charges have yet not been framed. The right of the accused to speedy trial is held to be sacrosanct and supersedes the rigours of Section 37 NDPS Act in the aforesaid conditions.

10. Considering the totality of the facts and circumstances, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/concerned Court/Duty M.M. and subject to the following further conditions :-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating Officer on which she will remain available during the pendency of the trial.



- iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
  - iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution witnesses or tamper with the evidence.
  - v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.
11. The bail application is disposed of in the above terms.
  12. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.
  13. Copy of the order be uploaded on the website forthwith.
  14. Needless to state that nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

**MANOJ KUMAR OHRI, J**

**JULY 18, 2024**

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