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

+ **BAIL APPLN. 1817/2024**

SHUAIB @ BUNDU

.....Petitioner

Through: Mr. Sandeep Chauhan and Mr. P.
Pratap, Advocates.

versus

THE STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Amit Ahlawat, APP for State
with ASI Sachin Singh, ARSC/Crime
Branch.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

14.11.2024

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1. This petition has been filed seeking regular bail in FIR No. 261/2023 under Sections 20/29 NDPS Act registered at P.S. Crime Branch, Delhi. Petitioner has been in custody since 08th January, 2024.
2. As per the nominal roll, petitioner has no previous involvement, and his jail conduct is satisfactory. Case of the prosecution is based upon a seizure made from one Parvez on 29th October, 2023 at New Delhi Railway Station of 108 kgs of *ganja*. Notice under Section 50 of NDPS Act was served upon him.
3. During investigation, it was disclosed by Parvez that he was working together with Gautam, Subhash Bhati, Usman, and the petitioner. As per Parvez, petitioner used to collect *ganja* from Andhra Pradesh, which Parvez used to bring to Delhi and hand over to Usman who then sold it locally



through Gautam and Subhash Bhati. Subsequently, Subhash Bhati, Usman, and the petitioner were all arrested. It is informed that Usman is on interim bail on medical grounds by order of this Court.

4. Case of the prosecution rests on the disclosure statement of Parvez as well as CDR connectivity between Usman and the petitioner as well as financial transactions of about Rs.3,95,000/- from the period from 17th June, 2023 to 27th October, 2023.

5. Counsel for the petitioner states that the table of transactions itself shows that small amounts have been exchanged over a period of time, and this too was on the basis that the petitioner and Usman (*who are stated to be cousins*) were running a business of re-selling clothes brought from Delhi in their hometown Muzzafarnagar. Moreover, he contends that since both the petitioner and Usman are related to each other, it is natural for them to have telephonic calls and transactions between them, and this in itself cannot implicate them for conspiracy of peddling contraband.

6. Counsel for the petitioner contends that no financial transactions are shown between the petitioner and Parvez from whom seizure was made.

7. In the opinion of this Court, considering that disclosure statements of co-accused persons are not admissible, applying Supreme Court's decision in *Tofan Singh v. State of Tamil Nadu*, 2020 SCC OnLine SC 882 and other decisions of Co-ordinate Benches of this Court, as also there is no material to corroborate the aspect of CDR connectivity and financial transactions between petitioner and his cousin Usman in that they were responsible for peddling contraband. Nevertheless, these are *prima facie* assessments and, ultimately, determination of these aspects will be subject matter of the trial.



8. At this stage, Court is of the *prima facie* view that the contentions of the petitioner have some merit, and the petitioner may, on reasonable grounds proved may not be guilty of the offence charged. Further, there is nothing to state that, if enlarged on bail, he may indulge in an offence yet again; there is no seizure made from the petitioner or even from Usman, the cousin from whom CDR connectivity is sought to be established.

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. 50,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- a. Petitioner will not leave the country without prior permission of the Court.
- b. 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.
- c. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
- d. Petitioner shall join investigation as and when called by the IO concerned.
- e. 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.



- f. Petitioner will mark presence physically before the concerned I.O. every Monday at 4 p.m., and will be not kept waiting for more than an hour.
- g. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, 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

NOVEMBER 14, 2024

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