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

+ **BAIL APPLN. 2733/2023**

VIMLESH DASS

.....Petitioner

Through: Mr. Karan Kapoor and Mr. Manik
Kapoor, Advocates.

versus

STATE GOVT OF NCT OF DELHI & ANR.Respondents

Through: Mr. Tarang Srivastava, APP for the
State with Anuj Yadav, Anti
Narcotics Squad, West Distt.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

09.12.2024

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By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973, the petitioner seeks regular bail in case FIR No.621/2022 dated 14.09.2022 registered under sections 22/29 of the Narcotic Drugs & Psychotropic Substances Act, 1985 ('NDPS Act') at P.S.: Tilak Nagar, New Delhi.

2. Notice on this petition was issued on 18.08.2023.
3. Status Report dated 08.08.2024 has been filed in the matter.
4. Nominal Roll dated 18.07.2024 has also been received from the concerned Jail Superintendent.
5. The court has heard Mr. Karan Kapoor, learned counsel for the petitioner as well as Mr. Tarang Srivastava, learned APP appearing for the State.
6. Pursuant to order dated 07.10.2024, the petitioner has also placed on record a tabulated summary of the 'pharmaceutical drugs' alleged to have been supplied to the petitioner alongwith their batch numbers,



quantities, dates of supply, names of supplier etc. as part of the written arguments filed on behalf of the petitioner.

7. Mr. Kapoor argues that it would be seen from the tabulated summary referred-to above, that the batch numbers of the contraband *Tramadol* which are part of the subject FIR, are different from the batch numbers of *Tramadol* alleged to have been recovered from the petitioner's premises.
8. Furthermore, Mr. Kapoor argues, that on an analysis of the recovery allegedly effected from co-accused Jatin and Taranjeet Singh as compared to what is alleged to have been recovered from the petitioner, it will be seen that yet again the batch numbers of *Tramadol* allegedly recovered from the petitioner's premises do not co-relate with any purchase order placed by the petitioner.
9. In essence and substance, the submission on behalf of the petitioner is that the alleged recovery made from the petitioner's premises *does not co-relate* with the contraband that is subject matter of the charge-sheet.
10. In these circumstances, it is prayed that the petitioner deserves to be enlarged on regular bail, especially since he has already been in judicial custody for about 02 years as an under-trial and has no other criminal involvements.
11. Opposing the grant of bail, Mr. Tarang Srivastava, learned APP on the other hand submits, that in view of the mandatory requirement of section 37 of the NDPS Act, the argument made by the petitioner in fact militates against grant of bail to him, since the said provision



requires that if bail is to be granted, the court must be *prima-facie* satisfied that the accused is not guilty of the offence alleged.

12. Learned APP places reliance on the status report filed in the case, to argue that more than *02 lac tablets of Tramadol*, in 02 separate batches of about 144000 tablets in one batch and about 72000 tablets in the other batch, *weighing about 100 kgs*, were recovered from the petitioner's premises. In view of the admitted position that the petitioner had surrendered his drug license on 11.08.2022, the recovery of such huge quantity of the drug on 24.09.2022 from the premises rented by the petitioner, points to his guilt; and the requirement of section 37 of the NDPS Act is accordingly, not satisfied.
13. Learned APP submits, that furthermore, the petitioner's argument that he had not placed any purchase order for supply of the contraband recovered only shows that there was no reason for the petitioner to have been in possession of the contraband.
14. Learned APP also argues that the Call Detail Records of the concerned parties show that the petitioner was in telephonic contact with the other co-accused persons. He submits, that in any case, if the petitioner is disputing the identity of the case property by relying upon the batch numbers, purchase orders etc., that is not an aspect that can be looked-into at the stage of considering his bail, since that would be a matter of trial.
15. Upon a conspectus of the foregoing, and without making any observations as regards the identity of the case property or other aspects referred-to above, suffice it to say that in the circumstances of



the present case, this court is unable to satisfy itself that there are reasonable grounds for believing that the petitioner is *not guilty* of the offence charged, which is one of the additional requirements of section 37 of the NDPS Act.

16. In the circumstances, this court is not persuaded to allow the present bail petition, *at this stage*.
17. The petition is accordingly dismissed.
18. Nothing in this order shall be construed as an expression of opinion on the merits of the matter.
19. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

DECEMBER 9, 2024

V.Rawat