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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3416/2023**
ANIL TAMANG Petitioner
Through: Mr. Suraj Prakash Sharma and Mr. Saurabh, Advs.

versus

STATE (NCT OF DELHI) Respondent
Through: Mr. Ajay Vikram Singh, APP for State with SI Sandeep Kumar, Narcotics Squad, South District.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

19.03.2024

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1. An application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for grant of regular bail in FIR No. 0234/2023 under Section 20(b) NDPS Act registered at P.S. Kotla Mubarakpur.
2. In brief, as per the case of prosecution, on 04.07.2023, a secret information was received at the office of Narcotics Squad, South District, New Delhi that a Nepali national person namely Anil would be arriving at Bheeshm Pitamah Marg, Kotla Mubarakpur, New Delhi and would be in possession of huge quantity of contraband substance i.e. Charas (Hashish) to supply the same. The information was conveyed to the senior officers and a raiding team was accordingly constituted. Petitioner on identification by the secret informer was intercepted and after serving of notice under Section 50 NDPS Act, his search was initiated. The contraband weighing 607 gms of



Charas (Hashish) was recovered from the bag in possession of petitioner. Accordingly, present FIR was registered under Section 20(b) of NDPS Act and accused was arrested after the compliance of Section 52 & 55 of the NDPS Act. During investigation, proceedings under Section 52A of NDPS Act were also initiated and the samples were drawn in accordance with law.

3. Learned counsel for the petitioner submits that the petitioner was in possession of intermediate quantity and has been in custody since 04.07.2023. It is pointed out that the charge is yet to be framed and about 15 witnesses are to be examined. Reliance is further placed upon *Anjali vs. State (GNCT Delhi)*, BAIL APPLN. 2442/2023, decided on 06.09.2023, *Narsimman vs. State (Govt. of NCT of Delhi)*, BAIL APPLN. 3863/2022, decided on 09.02.2023 and *Rehmatullah @ Arman vs. State of Delhi*, BAIL APPLN. 2866/2022, decided on 24.11.2022.

4. On the other hand, the application is opposed by learned APP for the State and it is submitted that since the petitioner is a resident of Nepal, he is a flight risk.

5. Admittedly, 607 gms of Charas (Hashish) is an intermediate quantity and infirmities, if any, in the prosecution case can be appreciated during the course of trial. However, it cannot be ignored that the accused is in custody since 04.07.2023 and the case is progressing at a snail's pace, as the charge is even yet to be framed. Since the contraband recovered from the possession of the petitioner, is of intermediate quantity, the rigors of Section 37 of the NDPS Act are not applicable in the present case. The possibility of influencing the witnesses is bleak since all the witnesses are police officials.

Considering the totality of facts and circumstances, petitioner is admitted to bail on furnishing personal bond in the sum of Rs. 50,000/-



(Rupees Fifty Thousand only) with two local sureties in the like amount to the satisfaction of the learned trial court and subject to the following conditions :

- (i) The petitioner shall provide his mobile number to the Investigating Officer (IO) / SHO concerned on release;
- (ii) In case of change of address, petitioner shall intimate/ communicate his fresh address to the IO/SHO concerned as well as to the learned Trial Court;
- (iii) The petitioner shall not leave the NCT of Delhi without the prior permission of the concerned trial court;

Application is accordingly disposed of.

Nothing stated herein shall tantamount to an expression of opinion on the merits of the case.

A copy of this order be sent to the Superintendent Jail and concerned Trial Court for information and compliance.

ANOOP KUMAR MENDIRATTA, J.

MARCH 19, 2024/akc