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

+ **BAIL APPLN. 2429/2024**

RAJAN

.....Petitioner

Through: Mr. Bijendra Singh, Mr. Raj Kumar Barthwal, Ms. Taniya Barthwal, Ms. Saloni and Mr. Amit Gupta and Mr. Asheesh Bhatt, Advocates.

versus

THE STATE, GOVT. OF N.C.T. OF DELHIRespondent

Through: Mr. Amit Ahlawat, APP for the State with SI Amit, PS Nabi Karim.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

16.07.2024

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CRL.M.A. 20457/2024 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The Bail Application under Section 439 read with Section 482 CrPC has been filed on behalf of the petitioner for grant of Regular Bail for the offence registered vide FIR No. 367/2022 under Section 20 NDPS Act, Police Station Nabi Karim.
4. It is submitted in the application that the accused was apprehended on 11.08.2022 at about 2:30 a.m and under suspicious circumstances and on his search, 2.7 kg Ganja was recovered from his possession.
5. It is submitted that the accused has been implicated falsely in this case. He is in judicial custody since 11.08.2022 that is for about 2 years 11



months. Charges have been framed but there is inordinate delay in recording of the witnesses by the prosecution as no witness has been recorded till date for further procedural deficiencies have been pointed out in the bail application to allege that the prosecution has not have a strong case against the accused. Further reliance has been placed on 'Naeem Ahmed alias Naim Ahmad vs. Govt. of NCT of Delhi', CrI.A. No. 1247/2024, decided on 28.02.2024, wherein it was observed that taking into consideration the totality of the circumstances, especially the period of custody undergone by the appellant but without expressing any view on the merits, the appeal is allowed and the appellant was released on bail. Similarly, in 'Mohd. Muslim vs. State (NCT of Delhi)', Special Leave Petition (Criminal) No. 915/2023, the Supreme Court held that undue delay in trial can be a ground for grant of bail under the Narcotic Drugs and Psychotropic Substances (NDPS) Act, despite Section 37 of the Act, putting heavy limitations on the grant of bail. Hence, a prayer is made that the petitioner be released on bail.

6. Learned APP appearing on behalf of the State has contested the bail application that there are 28 involvements of the accused in similar offences and has a bad character and that charges have already been framed and the prosecution is in the process of adducing the evidence. It is, therefore, submitted that there is no merit in the bail, which may be rejected.

7. **Submissions heard.**

8. It is not in dispute that the accused is in custody since 11.08.2022. Though, the charges have been framed on 06.07.2023, not even a single witness has been examined despite all the witnesses being police witnesses, for which there is no explanation.

9. In the light of the above two judgments wherein it has been observed



that the delay in trial is a valid ground for bail. The accused is admitted to bail on the following conditions:-

- a) The petitioner/accused shall furnish a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the trial court/Duty Magistrate.
 - b) The petitioner/accused shall appear before the Court as and when the matter is taken up for hearing.
 - c) The petitioner/accused shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number, without prior intimate to the Investigating Officer concerned.
 - d) The petitioner/accused shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
 - e) The petitioner/accused shall not leave the country, without permission of this Court.
 - f) The petitioner/accused shall not change his residential address and in case of change of the residential address, the same shall be intimated to this Court, by way of affidavit.
10. The Petition is disposed of.
 11. A copy of this Order be sent to the concerned Jail Superintendent and the learned Trial Court.

NEENA BANSAL KRISHNA, J

JULY 16, 2024/RS