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

+ **BAIL APPLN. 2458/2024**

NAWAB

.....Petitioner

Through: Mr. Kundan Kumar, Mr. Randhir
Kumar, Adv.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Ms. Priyanaka Dalal, APP for the
state

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

05.08.2024

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CRL.M.A. 20607/2024

Exemption is allowed subject to all just exceptions.

BAIL APPLN. 2458/2024

1. The present bail application has been filed under Section 439 Cr. PC read with Section 167(2) Cr. PC for grant of statutory bail in case FIR No. 341/2024, dated 02.04.2024, PS Narela Industrial Area under Section 21/25 NDPS Act.
2. Learned counsel for the petitioner has submitted that the petitioner was arrested on 05.04.2024. Learned counsel submits that, according to the prosecution's case, 108 grams of heroin, an intermediate quantity, was recovered from the possession of the petitioner/applicant. Learned counsel further submits that for this alleged recovery, the chargesheet is required to be filed within 60



days. The investigating agency is wrongly attributing the recovery made from other co-accused persons to the present petitioner in order to constitute a commercial quantity. Learned counsel asserts that, based on the recovery affected from other accused persons, the statutory time limit for filing the charge sheet cannot be extended to 180 days.

3. Learned counsel has placed reliance upon **Anita V. State (NCT of Delhi)** in Bail Appln. 1538/2022, DOD 20.07.2022, **Raju Diwarkar @ Pappu v. The State** in Bail Application No. 44/2020 decided on 13.02.2020, **Vicky Kaur v. State of Punjab** 2018 SCC OnLine P & H 6949 and **Amar Singh Ramji Bhai Barot v. State of Gujarat** 2005 7 SCC 550.
4. Learned APP for the State has fairly submitted that, as far as the present accused is concerned, 108 grams of heroin, an intermediate quantity, was recovered. It has also not been disputed that for an intermediate quantity, the chargesheet is required to be filed within 60 days. However, learned APP for the State submits that, based on the material available on the record as revealed from the investigation, there is a conspiracy among the accused Rajender @ Yusuf, Bhure, and the present petitioner.
5. Learned APP for the State submits that 520 grams of heroin were recovered. Learned APP submits that the chargesheet is almost complete and is likely to be filed soon.
6. I have considered the submissions.
7. As per the status report handed over today by the learned APP for the State, Rajender @ Yusuf was arrested on 02.04.2024, and 520 grams



- of heroin and Rs. 5,00,000/- cash were recovered from his possession. During interrogation, Rajender @ Yusuf disclosed that the recovered heroin was supplied to him by one Mr. Bhure and the same was to be delivered to his customer Nawab, i.e., the present petitioner/applicant.
8. During the PC remand, Mr. Bhure was arrested on 04.04.2024, and 100 grams of heroin were recovered from his possession. On 05.04.2024, at the instance of accused Rajender @ Yusuf, the present petitioner was arrested and 108 grams of heroin were recovered from his possession. An almost identical question came up for consideration before this Court in **Raju Diwarkar @ Pappu** (supra). The Court, vide order dated 13.02.2020, after taking into account the principle of purity percentage available in contraband, inter alia held that 51 grams of heroin were recovered, which is an intermediate quantity. The State in that case also had taken the plea that the total quantity recovered from all accused had to be clubbed. This Court, after taking into account the judgments in **Vicky Kaur** (supra) and **Amar Singh Ramji Bhai Barot** (supra), inter alia held that the quantity of contraband carried by both accused could not be added to bring it within the meaning of commercial quantity and Section 29 would not be attracted. This Court thus granted statutory bail.
9. This Court also in **Anita V. State (NCT of Delhi)** (supra) inter alia held that the recovery made from the co accused cannot be added to the quantity recovered from the petitioner/applicant.
10. In the facts and circumstances, the petitioner is admitted to bail on furnishing personal bond of Rs.25,000/- with one surety of the like amount to the satisfaction of the concerned learned Trial Court with



following conditions;

- a) the Petitioner shall cooperate in the investigation and appear before the Investigating Officer of the case as and when required;
- b) the Petitioner shall under no circumstances leave India without prior permission of the Court concerned;
- c) the Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
- d) In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.

11. Copy of the order be sent to the concerned Jail Superintendent for information and compliance.

12. In view of the above, the present application stands disposed of.

DINESH KUMAR SHARMA, J

AUGUST 5, 2024

Pallavi/NA