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

+ **BAIL APPLN. 2631/2024**

RAMITH NAIR (IN JC)

.....Petitioner

Through: Mr. Vikram Hegde, Mr. Chitwan
Sharma and Mr. Ashutosh Yadav,
Advocates.

versus

NARCOTICS CONTROL BUREAU

.....Respondent

Through: Mr. Shashwat Bansal, Advocate *via*
video-conferencing.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

22.10.2024

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By way of the present petition filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita 2023 read with section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act'), the petitioner seeks regular bail in Case No.VIII/01/DZU/2022 registered under sections 8(c)/20/22(c)/29 of the NDPS Act by the Narcotics Control Bureau ('NCB').

2. Notice on this petition was issued on 26.07.2024. Consequent thereupon, Status Report under cover of index dated 04.10.2024 has been filed by the respondent/NCB in the matter.
3. Nominal Roll dated 02.09.2024 has also been received from the Jail Superintendent.
4. Mr. Vikram Hegde, learned counsel appearing for the petitioner submits, that the petitioner's name has been brought into the case based on an e-mail dated 17.02.2022, stated to have been received by



the Mumbai Zonal Unit of the NCB from one *abhishekchahuhan96@gmail.com*, whereby the Mumbai Zonal Unit claims they were informed that the partner of one Rudra Singh (also an accused in the matter), by name Abhishek Chauhan, was hiding in a certain flat in Sector-135, Noida; and that the said Abhishek Chauhan *“hides all the illegal substance which he takes from rudra singh at a friend’s place (named Ramith) which is a PG”*.

5. The e-mail also purported to give the cellphone number of Abhishek Chauhan, his car number, his address as well as his mother’s cellphone number. The e-mail also has embedded in it a Google map location of a certain place, stated to be a paying guest (P.G.) accommodation, where the contraband could be found.
6. Mr. Hegde submits, that on accessing the Google map location embedded in the e-mail, it is found that the location so embedded is a place some 600 meters walking distance away from the P.G. accommodation Palace@72.
7. It is argued that the allegation against the petitioner is that contraband was recovered from the top shelf of the wardrobe in Room No.30 of the P.G. accommodation where the petitioner was present; however, admittedly there is nothing on record to show that the said room was either registered in the petitioner’s name; or that the petitioner was in any other manner connected with that room.
8. Mr. Hegde submits, that it is also the NCB’s allegation that, based on the CDRs obtained, they have found connectivity between the petitioner and Abhishek Chauhan; apart from certain financial transactions between the two persons. Counsel explains, that the



petitioner was in touch with Abhishek Chauhan since he used to borrow money from Abhishek Chauhan and the phone connectivity as well as the financial transactions relate to such borrowings. He points-out, that it will be noticed, that the financial transactions between the petitioner and Abhishek Chauhan were in very small sums of money, and they show that not only had the petitioner borrowed money from Abhishek Chauhan, but he had also returned money to him.

9. Furthermore, Mr. Hegde points-out, that it is recited in the NCB's complaint that one Gurcharan had come to the P.G. accommodation to deliver the contraband to the petitioner. He submits, that accordingly, if the chain of allegations is to be considered, it is the NCB's case that petitioner was found at the P.G. accommodation since at that time Gurcharan had come there to deliver contraband to him; and that contraband belonging to Abhishek Chauhan had been hidden by the petitioner in the P.G. accommodation.
10. Counsel submits however, that both Abhishek Chauhan as well as Gurcharan have been admitted to regular bail. Abhishek Chauhan has been granted regular bail *vide* order dated 29.07.2024 made by this court in BAIL APPLN. No. 461/2024; and Gurcharan has been admitted to regular bail *vide* order dated 08.05.2023 made by the learned ASJ/Special Court, NDPS, Patiala House, New Delhi.
11. Mr. Hegde has also drawn the attention of the court to what is narrated in order dated 29.07.2024 by which Abhishek Chauhan was granted regular bail, to point-out that in the said order it has been recorded that the recovery of contraband was made from the P.G. accommodation (referred to therein as 'guest house') *before* the



statement of the petitioner was recorded under section 67 of the NDPS Act.

12. Mr. Hegde argues that in this backdrop, the petitioner has already suffered judicial custody as an under-trial for about 02 years and 08 months, as may be seen from the nominal roll; and out of the 22 prosecution witnesses cited in the complaint and in the supplementary complaint, not a single witness has deposed so far, though charges were framed more than a year ago on 04.07.2023.
13. In these circumstances, it is prayed that the petitioner deserves to be admitted to regular bail.
14. On the other hand, opposing the grant of bail to the petitioner, Mr. Shashwat Bansal, learned counsel appearing for the NCB argues, that the contraband recovered from the P.G. accommodation was of 'commercial quantity'; that based on the e-mail received by the Mumbai Zonal Unit, which was forwarded to the Delhi Unit of the NCB on 17.02.2022, the NCB raided the P.G. accommodation premises where the petitioner was found present; and during the search of the premise, commercial quantities of MDMA and LSD and lesser quantities of *charas* and *ganja* were recovered, which were duly documented by way of a *panchnama* prepared in the presence of independent witnesses.
15. Mr. Bansal further argues, that once the recovery had been made, Guruchran was found in the same premises attempting to deliver *ganja* to the petitioner, which contraband had been sent by another co-accused and the *ganja* was also seized as per procedure.



16. Mr. Bansal submits, that phone connectivity has been established between the petitioner and co-accused Abhishek Chauhan; and on analysing their CDRs it has been found that the two were in regular contact with each other, and at times their location was also the same.
17. Mr. Bansal also points-out that the financial transactions between the petitioner and Abhishek Chauhan show, that in most cases, the petitioner has *received* money from Abhishek Chauhan, which the NCB claims was by way of commission for drug-dealing.
18. It is also submitted that photos of contraband have been found in the petitioner's cellphone.
19. Upon an overall conspectus of the facts and circumstances of the case, what weighs with the court at this stage, are the following considerations :
 - 19.1. Admittedly, no recovery has been made from the person of the petitioner, or from any premises with which the petitioner can be stated to have been *directly* connected. The NCB's case is only that the petitioner was present in a certain room in a P.G. accommodation and contraband was recovered from a certain wardrobe in those premises. The petitioner has not been shown to be the registered occupant of the P.G. accommodation, nor that he was in any other way connected with those premises;
 - 19.2. Interestingly, e-mail dated 17.02.2022 stated to have been received by Mumbai Zonal Unit of the NCB, based on which the NCB raided the P.G. accommodation, where the petitioner is alleged to have been present, was addressed by one *Abhishek Chahuhan*, and purported to give-out the hiding place,



cellphone number, car number as well as mother's cellphone number of *Abhishek Chauhan himself*. Accordingly, the provenance of the e-mail requires to be considered in the course of trial;

19.3. The petitioner is alleged to have been waiting in the room in the P.G. accommodation to receive contraband from co-accused Gurcharan; and it is also alleged that he was hiding contraband for Abhishek Chauhan in that premises; however, both Gurcharan and Abhishek Chauhan have already been admitted to regular bail; and

19.4. Furthermore, the petitioner has already suffered about 02 years and 08 months of judicial custody as an under-trial, whereas not even 01 out of the 22 prosecution witnesses has so far been examined; and therefore, it would take substantial time to complete the trial.

20. Upon an overall consideration of the foregoing, and as a sequitur to the above, this court is persuaded to allow the present petition, thereby admitting the petitioner – ***Ramith Nair s/o Radha Krishnan*** – to *regular bail* on the following conditions :

20.1. The petitioner shall furnish a personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;

20.2. The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at



- any time and shall ensure that the number is kept active and switched-on at all times;
- 20.3. The petitioner shall *ordinarily* reside at the address as per prison records;
- 20.4. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
- 20.5. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and
- 20.6. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.
21. Nothing in this order shall be construed as an expression of opinion on the merits of the pending trial.
22. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
23. The petition stands disposed-of in the above terms.
24. Other pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

OCTOBER 22, 2024

V.Rawat