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

+ **BAIL APPLN. 3836/2023 & CRL. M.A. 31105/2023**

ADESH YADAV

..... Applicant

Through: Mr. Pabitra Kumar Paik,
Advocate.

versus

**THE STATE OF DELHI
THROUGH HOME SECRETARY
DEPARTMENT OF HOME**

..... Respondent

Through: Mr. Utkarsh, APP for the
State with S.I. Pardeep
Malik, P.S. Lajpat Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

20.02.2024

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1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973 ('CrPC') seeking grant of regular bail in FIR No. 222/2023 dated 03.04.2023 registered at Police Station Lajpat Nagar for offences under Sections 20/61 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act'). The chargesheet in the present case has been filed on 01.06.2023, *qua* the applicant under Section 20 of the NDPS Act.

2. It is alleged that while conducting patrol duty on 03.04.2023 within the vicinity of Lajpat Nagar, the Head Constable, purportedly observed an individual/applicant whom he deemed suspicious and subsequently, decided to search when the said individual, upon noticing the presence of police authority, started moving towards the railway tracks. On



apprehending the applicant, it is alleged that he did not give a satisfactory explanation as to his conduct. On asking, he disclosed that he was possessing narcotics substance (Ganja). After complying with the statutory provisions of the NDPS Act, on a cursory search of the sack which he was carrying, Ganja (narcotics substance), was recovered. On weighing, the contraband was found to be of approximately 15kg. Accordingly, the present FIR was registered and the applicant was arrested on the same day. The applicant is in incarceration since then.

3. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the applicant belongs to the poor strata of the society.

4. The learned counsel submits that neither there is any public witness nor there is any corroborative evidence against the applicant. He further submits that the statement recorded by the police under Section 161 of the CrPC, is not admissible in evidence and the applicant was coerced to write the disclosure statement.

5. The learned counsel submits that the contraband recovered from the applicant is of intermediate quantity and does not attract the rigors of Section 37 of the NDPS Act.

6. The learned counsel submits that the applicant is the sole bread earner of the family having mother aged 70 years, wife and a child to take care of.

7. The learned Additional Public Prosecutor for the state submits that the applicant is also involved in other offences.

8. In response, the learned counsel for the applicant submits that there is no investigation or proceedings pending in relation to any FIR registered against him at an earlier occasion. He submits



that he has been to the best of his knowledge, acquitted in all the FIRs.

9. It is not denied that the contraband recovered from the applicant is Ganja weighing approximately 15kgs which is an intermediate quantity, and the rigours of Section 37 of NDPS Act does not apply.

10. It is also not denied that there is no public witness, and apart from the chance recovery, as alleged by the prosecution, there is no other evidence against the applicant at this stage. Though, it is argued that the contraband was planted on the applicant, the same would be tested during the trial.

11. The charge sheet in the present case has already been filed and the applicant is no longer required for custodial interrogation. The trial is not likely to conclude in near future and no purpose will be served by keeping the applicant in further incarceration. Any chance of the applicant fleeing from justice or tampering with evidence can be taken care of by putting appropriate conditions.

12. In view of the above, the applicant is directed to be released on bail in FIR No. 222/2023, on furnishing a personal bond in the sum of ₹10,000/- with two sureties of the like amount, subject to the satisfaction of the Trial Court/Duty Metropolitan Magistrate on the following conditions:

- a. The applicant shall under no circumstances, leave the boundaries of National Capital Region without informing the concerned IO.
- b. The applicant shall provide the address of where he would be residing after his release and shall not change the address without informing the concerned IO/SHO;
- c. The applicant shall, upon his release, give his mobile



number to the concerned IO/SHO and shall keep it at switched on mode at all times;

- d. The applicant shall appear before the concerned Court as and when the matter is taken up for hearing;
- e. The applicant shall not indulge in any act or omission that is unlawful, illegal or that would prejudice the proceedings;
- f. The applicant shall not tamper with any of the evidences in any way or contact any of the witnesses, while on bail.

13. The bail application is disposed of in the aforesaid terms alongwith the pending application.

14. It is clarified that observations made in the present case are only for the purpose of considering the bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

AMIT MAHAJAN, J

FEBRUARY 20, 2024

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