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

+ **BAIL APPLN. 4003/2023**

KRUNAL GOLWALA

..... Petitioner

Through: Mr. D.N. Ray, Sr. Advocate with Mr.
Dillip Kumar Nayak, Ms. Sumita Ray
& Ms. Disha Ray, Advocates.

versus

NARCOTICS CONTROL BUREAU Respondent

Through: Mr. Subhash Bansal, Sr. Standing
Counsel with Mr. Raghav Bansal,
Advocate.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

19.03.2024

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1. The present application under Section 439 of the Cr.P.C. seeks regular bail in Sessions Case No. 105/2022 arising out of Complaint Case No: VIII/53/DZU/2021, under Sections 21(c)/29 and 27A/29 of the NDPS Act, registered by Narcotics Control Bureau, pending before Court of learned ASJ/Special Judge, NDPS, Patiala House, New Delhi.

2. The case of the prosecution is that on 25.09.2021, one co-accused Pankaj Gupta was arrested and various contrabands of commercial as well as small quantity were recovered from him. On the basis of the disclosure statement of the aforesaid Pankaj Gupta, several co-accused persons, including Mr. Akash Mehra and Mr. Siddharth Sahdev, were arrested. During further investigation, it was revealed that the present applicant had supplied the contraband through one Jasbir Singh to Pankaj Gupta on account of which there was a money transaction to the bank account of one



Devender Kumar Mandal. It is the case of the prosecution that the aforesaid Devender Kumar Mandal, was at one time employee of the present applicant and the said account was opened at his instance.

3. Learned Senior Counsel appearing on behalf of the applicant submits that the aforesaid Pankaj Gupta, Akash Mehra have since been granted bail. It is further pointed out that the co-accused Jasbir Singh, has been discharged by the learned Special Court and the only evidence that the prosecution relies upon are the statements of the co-accused, which is hit by the judgment of the Hon'ble Supreme Court in **Toofan Singh vs. State of Tamil Nadu., (2021) 4 SCC 1**. It is further pointed out that the applicant was arrested while he was in custody in another complaint case filed by the respondent bearing case no. VIII/46/DZU/2021. It is pointed out that in the aforesaid case, the present applicant has been granted bail *vide* order dated 28.02.2024, passed by Special Judge, NDPS Act. It is further submitted that the present applicant has been in judicial custody since 25.09.2021.

4. Per contra, learned Senior Standing Counsel for the NCB submits that the present applicant was arrested on the basis of statements made by the co-accused Pankaj Gupta as well as the fact that the transaction of the relevant time is reflected from the account maintained by Devender Kumar Mandal. It is submitted that the nature of the testimony of Devender Kumar Mandal shows that the said account was opened by the present applicant. Learned Senior Standing Counsel confirms the fact that the aforesaid Jasbir Singh has been discharged by the learned Special Court.

5. Heard learned counsel for the parties and perused the record.

6. Charges in the present case have been framed against the applicant on the basis of the statements made by the co-accused as well as transaction



reflected in the account details of the aforesaid Devender Kumar Mandal. It is an admitted case of the prosecution that all other co-accused persons in the present case have been granted bail and no recovery has been effected from the present applicant. The link as pointed out above, is the statements of the co-accused persons including the aforesaid Jasbir Singh, who has since been discharged by the learned Special Court.

7. As per nominal roll, the applicant has been in judicial custody since 10.10.2021 and as on 29.12.2023, he has undergone custody of 02 years 02 months and 22 days.

8. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 1,00,000/- with two sureties of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
 - ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
 - iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
 - iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
 - v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
9. The application is allowed and disposed of accordingly.



10. Pending application(s), if any, also stand disposed of.
11. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.
12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MARCH 19, 2024/bsr