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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 2840/2024**

VIKARAM @ KALE

.....Petitioner

Through: Mr. Suraj Prakash Sharma,
Adv. (through VC)

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh,
APP for the State
SI Dinesh Kumar, PS-
NIA

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **24.10.2024**

CRL.M.A. 29275/2024(for exemption)

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

BAIL APPLN. 2840/2024 &CRL.M.A. 29274/2024

3. The present application is filed seeking regular bail in FIR No. 347/2024 dated 03.04.2024 registered at Police Station Narela Industrial Area for offences under Sections 21/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('**NDPS Act**').

4. It is alleged that on 03.04.2024, while patrolling, the applicant was apprehended by the police and on his search, 20 grams of smack was found.

5. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. He submits that the alleged contraband was planted by the Police upon him. He submits that there is no witness to the said recovery as mentioned in the FIR, which evidently proves that the applicant has been falsely implicated by the police.



6. He further vehemently contends that it is suspicious that the Police found the applicant carrying a bag on his shoulder and apprehended him.

7. He submits that, admittedly, the applicant was apprehended in a busy place and not finding any public witness raises suspicion in the entire story of the prosecution.

8. He submits that the applicant is in custody since 04.04.2024. The chargesheet has already been filed and he is no longer required for any investigation.

9. Lastly, he contends that since the recovery from the applicant is of intermediate quantity, therefore, the rigours of Section 37 of the NDPS Act are not attracted in the present case.

10. The learned Additional Public Prosecutor for the State submits that the applicant has been involved in other cases as well. He submits that, on an earlier occasion, the applicant was found to be involved in cases in regard to contravention of the Excise Act.

11. The applicant is stated to be belonging to the poor strata of society. The chargesheet has already been filed in the present case and the applicant is no longer required in custody.

12. Also, the alleged recovery is merely 20 grams which is intermediate. There is also merit in the argument raised by the learned counsel for the applicant that the applicant being apprehended in suspicious circumstances raises a doubt on the entire case of the prosecution.

13. It is also undisputed that the recovery was made from a busy place and not finding any public witness, in such circumstances, also creates doubt in the story of the prosecution.

14. Though it is stated by the prosecution in the chargesheet that some people were asked to join the police party during the



course of search, however, undisputedly, no notice under Section 100 of the Code of Criminal Procedure, 1973 ('CrPC'), was served on any of the public persons.

15. The learned counsel for the applicant has contended that the search was conducted without following the procedure. He submits that even as per the case of the prosecution, the bag which was carried by the applicant was searched without issuing any notice or following the procedure stipulated in the CrPC or the NDPS Act. The entire procedure as adopted by the Police casts a doubt on the entire case by the prosecution.

16. The applicant has been in custody for a substantial period of time. The chargesheet has already been filed and the applicant is not required in custody for any further investigation.

17. Without commenting further on the merits of the case, the applicant has made out a *prima facie* case for grant of bail.

18. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

19. The applicant is therefore directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;



- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he shall reside upon his release, and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

20. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

21. It is clarified that any observations made in the present order are for the purpose of deciding the present 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.

22. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

OCTOBER 24, 2024 / "SS"