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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **BAIL APPLN. 2997/2024**

MD. DASTGIR .....Applicant  
Through: Ms. Babita, Adv.

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**

1. 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').
2. The applicant was arrested on a disclosure statement of the co-accused, Vikaram who was allegedly apprehended with 20 grams of smack.
3. By a separate order passed today in BAIL APPLN. 2840/2024, the co-accused, Vikaram has already been admitted on bail. Even otherwise, the sole reason for arrest of the applicant is the disclosure statement of the co-accused, Vikaram without any recovery from the applicant.
4. It is relevant to note that while the veracity of the disclosure statement of the said co-accused is to be tested at the

**BAIL APPLN. 2997/2024**

**Page 1 of 5**



time of the trial, this Court cannot lose sight of the decision of the Hon'ble Supreme Court in *Tofan Singh v. State of Tamil Nadu: (2021) 4 SCC 1*, wherein it was held that a disclosure statement made under Section 67 of the NDPS Act is impermissible as evidence without corroboration.

5. The applicant is in custody since 28.05.2024. In view of the above, the applicant is entitled to be released on bail on the ground of parity as well as the period of incarceration already undergone.

6. The learned Additional Public Prosecutor for the State submits that the applicant, on an earlier occasion, was also involved in a case under the NDPS Act and was also convicted with a sentence of ten years of rigorous imprisonment.

7. The learned counsel for the applicant submits that the sentence awarded was suspended by this Court by order dated 23.11.2021 in CRL. A. 260/2021.

8. As noted by this Court in BAIL APPLN. 2840/2024, the entire story of the prosecution at this stage, appears doubtful.

9. The applicant otherwise also, is sought to be implicated on the basis of the disclosure statement and the alleged CDR connectivity which shows the applicant to be contact with the co-accused, Vikaram.

10. It is not denied that there is no phone recording which would show that the accused persons were in contact with each other in regard to the alleged activities.

11. Merely being in touch with other persons does not mean that the person was also involved with those persons in regard to the criminal activity.

12. This Court, in the case of *Dalip Singh v. State (NCT of*



**Delhi) : 2019 SCC OnLine Del 6494**, had observed as under:

*“11. On perusal of the record, it is prima facie seen that there are two major missing links in the case of the prosecution. There is no link established by the prosecution between the petitioner with the alleged supplier Manoj. Further the entire case of the prosecution, in so far as petitioner is concerned is circumstantial i.e. based solely on disclosure statement of a co-accused which is per se not admissible without there being any corroboration. Prosecution has not been able to establish any connection between the subject offence and the bank accounts, where the petitioner is alleged to have been depositing money or with the holders of those accounts. Merely because the petitioner has been having telephonic conversation with the co-accused, would not be sufficient to hold that petitioner is guilty of the subject offence. There is no recovery made from the petitioner.*

*12. I am of the view that requirement of Section 37 of the NDPS Act are satisfied. In so far as the petitioner is concerned, there are reasonable grounds to believe that petitioner is not guilty of the said offence.”*

(emphasis supplied)

13. Even otherwise, the co-accused, Vikaram, has already been admitted on bail by a separate order passed today in BAIL APPLN. 2840/2024.

14. The applicant is also stated to be belonging to a poor strata of society and has an entire family to be taken care of.

15. 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.



16. In view of the above, the applicant is 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.

17. 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.

18. 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.

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

**AMIT MAHAJAN, J**

**OCTOBER 24, 2024**

**“SS”**