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

+ **BAIL APPLN. 4261/2023**

SABIR HUSSAIN

..... Petitioner

Through: **Mr. Raja Panda, Adv.**

versus

STATE OF NCT OF DELHI

..... Respondent

Through: **Mr. Ritesh Kumar Bahri, APP for State.**

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

13.03.2024

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1. The present petition has been filed under Section 439 CrPC seeking regular bail in connection with FIR No.298/2023 under Sections 20/25 NDPS Act, 1985 registered at PS-Kalindi Kunj.
2. The case of the prosecution is that police received a secret information that a person will come to Kalindi Kunj Metro Station to supply illegal *Ganja*. After being satisfied with the information, a raiding team was constituted and raid was conducted. During raid 8.06 kg *Ganja* was recovered from the present petitioner. Following this, the present FIR came to be registered.
3. Learned counsel for the petitioner submits that the quantity of the *Ganja* recovered is an intermediate, therefore, rigors of Section 37 of the NDPS Act are not attracted in the present case. He further submits that the investigation is complete and the charge sheet has already been filed,



therefore, the custody of the petitioner is no more required. The charges have been framed and the prosecution has cited, as many as, 9 witnesses in the charge sheet and the conclusion of trial will take long time.

4. Insofar another offence stated to be registered against the present petitioner is concerned, he submits that in the said case the petitioner is already on bail. He, therefore, urges the Court to enlarge the petitioner on bail.

5. *Per contra* the learned APP for the State has argued on the lines of the Status Report.

6. In the present case, the recovery made from the petitioner is 8.06 kg *Ganja* which is an intermediate quantity. Therefore, rigors of Section 37 of the NDPS Act will not apply to the present case. The petitioner is already in custody since 19th June, 2023 and the investigation is complete. The charge sheet has already been filed but the evidence is yet to commence.

7. Regard being had to the fact that the prosecution has cited, as many as, 9 witnesses in the charge sheet, inevitably the trial in the present case is going to be a protracted one. Further, considering the fact that the quantity recovered is intermediate, the custody of the petitioner for an indefinite period to await the outcome of the trial is not warranted.

8. Insofar as another case registered against the petitioner is concerned, there is no dispute that the petitioner is on bail in the said case. The apprehension expressed by the prosecution that the petitioner may jump the bail, can be allayed by putting appropriate conditions.

9. Considering the aforesaid facts in entirety, I am of the view that petitioner has made out a case for grant of regular bail. Accordingly, the petitioner is enlarged on bail subject to his furnishing a personal bond in the



sum of Rs. 25,000/- and one surety bond of the like amount to the satisfaction of the Trial Court/CMM/Duty Magistrate, further subject to the following conditions:-

- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
 - b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
 - c) Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses.
10. The petition stands disposed of.
 11. It is made clear that nothing stated above is to be construed as an expression of opinion on the merits of the case.
 12. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance and information.
 13. Order *dasti* under signatures of the Court Master.
 14. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

MARCH 13, 2024

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