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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ BAIL APPLN. 3128/2024, CRL.M.A. 26197/2024 &
CRL.M.(BAIL) 1604/2024
KOMAL TIWARIPetitioner

Through: Mr. Pritesh Sabrawal, Mr. Sharad
Pandey, Mr. Sandeep Mishra, Mr.
Surbhit Nandan and Mr. Sanjeet
Kumar, Advocates

versus

STATE (NCT OF DELHI)Respondent
Through: Mr. Yudhvir Singh Chauhan APP for
the State with SI Ashish Sharma,
ISC, Crime branch, Chanakyapuri

CORAM:
HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

% **ORDER**
21.11.2024

1. The instant application under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter as the “BNSS”) [earlier under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973] has been filed on behalf of the petitioner seeking grant of bail in FIR bearing No.59/2024, registered at Police Station - Crime Branch, Delhi, for offences punishable under Sections 274/275/276/308/406/420/468/471/120-B/34 of the Indian Penal Code, 1860 (hereinafter “IPC”).

2. The brief facts of the case are that secret information was received at Crime Bach, Delhi regarding one Mr. Vipnil Jain, who was allegedly



procuring empty vials and raw material for the preparation of spurious anti-cancer injections such as Keytruda, Opdyta, Opdivo etc., from his associate, namely, Mr. Parvez Malik. After receiving the said information, a joint team of the investigative agency was sent to the said premises to conduct raid and upon doing so, it was found that Mr. Vipnil Jain and one Mr. Suraj Shat were filling the empty anti-cancer vials Fluconazole Injection USP 2mg/ml (Forcan) and dextrose, using a needle, and storing the same at the said premises.

3. Based on the disclosure statements given by Mr. Vipnil Jain and Mr. Suraj Shat, several individuals, including the applicant herein were apprehended. Hence, the applicant filed the instant application seeking regular bail.

4. Learned counsel for the applicant submitted that the applicant is innocent and was falsely implicated in the instant case. It is submitted that the applicant has no prior criminal record and has been languishing in custody since 14th March, 2024. Moreover, the investigation is already completed and chargesheet was filed, hence, there is no requirement of the applicant's presence for custodial interrogation.

5. It is submitted that the applicant was falsely arrested based on the disclosure statements of Mr. Vipnil Jain and Mr. Suraj Shat, however, the investigative agency failed to recover any substantial evidence against the petitioner.

6. It is further submitted that the evidence in the instant case is entirely documentary in nature and is in custody of the investigative agency, therefore, there arises no possibility on part of the applicant to tamper with the evidence. Moreover, most of the witnesses therein are official witnesses



and hence, there are bleak chances of the applicant threatening them.

7. It is further submitted that several co-accused in the instant case have been granted bail and therefore, the applicant herein prays this Court to give the benefit of parity.

8. On instructions, the learned counsel for the applicant undertakes that the applicant shall abide by all the condition imposed by this Court while granting the bail.

9. Therefore, in view of the foregoing submissions, it is prayed that the applicant herein may be released on bail.

10. *Per Contra*, learned APP appearing on behalf of the State vehemently opposed the instant application submitting to the effect that applicant herein is involved in heinous offences, therefore, is not entitled to the concession of bail.

11. It is also submitted that if the applicant is released on bail, there are high probabilities of him influencing the trial by contacting witnesses and tampering with the evidence. However, it is fairly conceded on behalf of the State that there is no previous criminal history of the applicant, and that the investigation has been completed and chargesheet has already been filed.

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

13. This Court has perused the orders passed by the Co-ordinate Bench of this Court, wherein the applicants therein are similarly situated with the applicant herein and were granted bail. Moreover, the investigation has already been completed and chargesheet has been accordingly filed by the investigative agency.

14. It is pertinent to note it is a settled principle of law that the benefit of parity may be given to the accused while granting the bail, if the accused is



similarly footed with the co-accused and the said principle has been enumerated in various case-laws of Hon'ble Supreme Court as well as the High Courts, including the case of ***Jaya Simha v. State of Karnataka, (2007) 8 SCC 145.***

15. Therefore, this Court is *prima facie* of the view that even if the applicant is released on bail, there are remote chances of him tampering with the evidence or threatening the witnesses as the evidence is already documented and the witnesses are official in nature. Furthermore, it is observed that the applicant has no criminal antecedents.

16. Therefore, this Court is of the considered view that the applicant herein is on a similar footing with the other co-accused, who were already released on bail, the applicant hereby given the benefit of parity.

17. In view of the fact that the co-accused persons being released on bail, absence of any criminal antecedents, remote chances of tampering with the evidence and threatening the official witnesses and the law laid down by the Hon'ble Supreme Court alongwith the fact that the investigation had already been completed and chargesheet had been filed, this Court is inclined to allow the instant applicant seeking regular bail. Accordingly, it is directed that the instant applicant be released in bail on his furnishing personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand only) with two sureties of like amount to the satisfaction of the Jail Superintendent/ Trial Court subject to the conditions as follows:-

- h) the applicant shall under no circumstances leave India without prior permission of the Court concerned;
- i) the applicant shall appear before the Court as and when required;
- j) the applicant shall not directly or indirectly make any inducement,



- threat or promise to any person acquainted with the facts of the case, and/or attempt to tamper with the evidence;
- k) the applicant shall provide his mobile number(s) and keep it operational at all times;
- l) the applicant shall commit no offence whatsoever during the period he is on bail;
- m) in case of change of residential address and/or mobile number, the same shall be intimated to the Court concerned by way of an affidavit; and
- n) The applicant shall report to the jurisdictional Police Station on 15th day of every calendar month.
18. Accordingly, the instant bail application with pending applications, if any, stands disposed of.
19. Copy of this order be sent to Jail Superintendent for compliance.
20. It is made clear that any observations touching merits of the case are purely for the purpose of deciding the question of grant of bail by this Court and shall not construed as an expression of final observation in the proceedings pending before the learned Trial Court.

CHANDRA DHARI SINGH, J

NOVEMBER 21, 2024

Rt/mk

Click here to check corrigendum, if any