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

+ **BAIL APPLN. 35/2024**

SEWAK SINGH

..... Petitioner

Through: Mr Tajpartap Singh, Asfak Ansari
and Ms Sonia Banga, Advocates.

versus

STATE

..... Respondent

Through: Mr Ritesh Kumar Bahri, APP for the
State with SI Sandeep Kumar, PS
Kashmere Gate.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

% **22.01.2024**

1. The present petition has been filed under Section 439 CrPC seeking regular bail in connection with FIR No.0307/2021 under Sections 22 & 29 of the NDPS Act, registered at PS Kashmere Gate.
2. Learned counsel for the petitioner submits that the petitioner along with co-accused persons, namely, Bohad Singh and Vinod has come from district Bhatinda in the year 2021 during the farmers' agitation in Delhi. He submits that all the aforesaid persons are residents of their respective villages which are in close proximity to each other and they were known to each other prior to coming to Delhi.
3. He draws the attention of the Court to the statement of the cab driver, namely, Nisar recorded under Section 161 CrPC, to contend that the bag from which the contraband was recovered was kept by one Naved, who initially booked the ride of the cab. He submits that the petitioner was unaware about the contents of the bag, therefore, the petitioner cannot be said to be in conscious possession of the contraband.
4. Learned APP for the State has handed over a status report today in the



Court, which is taken on record. He has argued on the lines of the status report. Elaborating further, he submits that the petitioner was in conscious possession of the contraband and he was apprehended from the spot. Further, the CDRs reveal that he was in touch with the accused Naveen @ Naved, Vinod and Bohod Singh @ Boharh Singh.

5. In response, learned counsel for the petitioner submits that even accused Naveen @ Naved has been enlarged on bail, which fact is not disputed by the learned APP for the State, on instructions from the IO, who is present in the Court.

6. On a query posed by the Court, learned APP for the State, on instructions from the IO, fairly states that the cab driver namely, Nisar in his statement recorded under Section 161 CrPC has stated that the bag in the cab was kept by one Naved and the same does not belong to the present petitioner, therefore, *prima facie* it appears that petitioner was not in conscious possession of the contraband.

7. Learned APP further fairly concedes that the petitioner does not have any criminal record.

8. It is also not in dispute that the co-accused Bohod Singh and Vinod, who are similarly, situated as the present petitioner have also been granted regular bail.

9. In light of the above, this Court is of the considered view and there are reasonable grounds to believe that the petitioner is not guilty of the offence and, further, since the antecedents of the petitioner are clean, there is no material on record to show that the petitioner is likely to commit any offence while on bail.

10. In view of the above, this court is of the opinion that the petitioner has



made out a case for grant of regular bail. Accordingly, the petitioner is admitted to regular bail subject to his furnishing a Personal Bond in the sum of Rs.10,000/- and one Surety Bond each of the like amount to the satisfaction of the learned 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 his permanent address, as well as, his mobile number to the IO concerned. The mobile number 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 any of the witnesses.

- 11. The petition stands disposed of.
- 12. It is clarified that the observations made herein above are only for the limited purpose of deciding the present bail application and the same shall not be construed as an expression of opinion on the merits of the case.
- 13. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance.
- 14. Order *dasti* under signatures of the Court Master.
- 15. Order be uploaded on the website of this Court.

VIKAS MAHAJAN, J

JANUARY 22, 2024/MK