



2024:DHC:8021



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

*Date of Decision: October 16, 2024*

+ **BAIL APPLN. 3205/2024**

**FARMAN**

.....Petitioner

Through: **Mr. Kamal J. S. Mann, Advocate.**

versus

**STATE NCT OF DELHI**

.....Respondent

Through: **Mr. Manoj Pant, APP for State with  
SI Sandeep Kumar, Anti-Narcotics  
Squad, South District.**

**CORAM:**

**HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA**

**ORDER**

**ANOOP KUMAR MENDIRATTA, J.**

1. An application under Section 439 read with Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner for grant of regular bail in FIR No. 0061/2024 under Sections 22/25 of NDPS Act registered at P.S.: Kotla Mubarkpur. Chargesheet has been filed under Secitons 22/25/29 NDPS Act.

2. In brief, as per the case of prosecution, on the basis of secret information, on 16.01.2024, co-accused Ankit Sharma was apprehended with three carton boxes containing 1200 vials of Avil Injections and 6 white colored carton boxes containing 600 tablets of Buprenorphine and Naloxone each. During the course of investigation, he disclosed that the contraband was given to him by one Vikas Chauhan, for the purpose of supplying the same to petitioner Farman. Thereafter, at the instance of accused Ankit

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Sharma, petitioner was arrested on 18.01.2024.

3. Learned counsel for petitioner submits that petitioner is in custody since 17.01.2024 and there is no connecting evidence to link the petitioner with the alleged conspiracy except for alleged phone calls relied by prosecution.

4. On the other hand, learned APP for State vehemently opposes the application and submits that as per CDR analysis, petitioner exchanged 53 calls with accused Vikas Chauhan and 6 calls with co-accused Ankit Sharma during the period 01.07.2023 to 16.01.2024. He also points out that petitioner is involved in two other cases under Gambling Act 2005 and material witnesses are yet to be examined.

5. I have given considered thought to the contentions raised.

Under Section 37(1)(b)(ii), the limitations on the grant of bail for offences punishable under Sections 19, 24 or 27A and also for offences involving a commercial quantity are :

(i) *The Prosecutor must be given an opportunity to oppose the application for bail; and*

(ii) *There must exist 'reasonable grounds to believe' that (a) the person is not guilty of such an offence; and (b) he is not likely to commit any offence while on bail.*

6. Reverting back to the facts of the case, only evidence against the petitioner consists of CDR calls whereby, petitioner is stated to have been in touch with co-accused Ankit Sharma and Vikas Sharma in between 01.07.2023 and 16.01.2024. This Court is of the considered opinion that in absence of any other corroborating evidence on record, merely on the basis of CDR, which is not supported by any other exchange of messages, it may



be difficult to curtail the liberty of the petitioner. At the stage of granting bail, even though a detailed examination of the evidence is not required to be undertaken but prosecution needs to establish some clinching evidence to reflect that petitioner was in conspiracy with co-accused with reference to the contraband recovered. Merely, because the petitioner is involved in two other cases under Gambling Act, 2005, he cannot be denied the benefit of bail.

In the facts and circumstances, this Court is of the considered opinion that at this stage, there are reasonable grounds to believe that petitioner is not guilty of the alleged offence.

Petitioner is accordingly admitted to bail on furnishing personal bond in the sum of Rs. 1,00,000/- (Rupees One Lakh only) with two sureties in the like amount to the satisfaction of the learned trial court and subject to the following conditions :

- (i) Petitioner shall provide his mobile number to the Investigating Officer (IO) concerned/SHO concerned at the time of release;
- (ii) Petitioner shall surrender his passport, if any, with the Investigating Officer (IO) within three days of the release; and
- (iii) Petitioner shall not indulge in any criminal activity or any illegal activities during the bail period.

Application is accordingly disposed of.

A copy of this order be forwarded to the learned Trial Court and Superintendent Jail for information.

**ANOOP KUMAR MENDIRATTA, J.**

**OCTOBER 16, 2024/R**

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