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

+ **BAIL APPLN. 3232/2024**

SALIM

.....Petitioner

Through: Mr Hasim Alam, Adv.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms Priyanka Dalal, APP for State
SI Rahul and ASI Mohd. Rahishuddin, PS-Crime
Branch.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

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19.11.2024

1. This is petition filed under Section 187(3) of Bhartiya Nagrik Suraksha Sanhita, 2023 ('BNSS') for grant of default bail to the petitioner.
2. Mr Alam, learned counsel for the petitioner states that the petition though is nomenclatured for grant of default bail, it may be treated as a petition under Section 483 of BNSS for regular bail.
3. Ms Dalal, learned APP has no objection to the said plea.
4. For the said reasons, the present petition shall be treated as a petition for regular bail and not under Section 187(3) of BNSS for default bail.
5. Arguments have been heard on behalf of the parties.
6. In the present case, the petitioner was apprehended with 21 grams of smack. The same is admitted in the status report wherein para 4 reads as under:

"4. During the course of interrogation, accused Rizwan Ali disclosed that he used to procure drugs from one Munish,



who hails from Singapur, PS Mirzapur, Shahjahanpur, UP and to sell it in different parts of Delhi & NCR to his customers. He further disclosed that recently he brought 300 gms smack from Munish and gave 20 grams of it to Salim from his village Unkalan and the remaining 280 grams of Heroin was to be delivered to someone in Delhi.”

7. A perusal of para 4 clearly shows that it was the co-accused who was having commercial quantity of smack namely 300 grams, and only 20 grams of it was given to the petitioner. Hence, this is a case of intermediate quantity and not of a commercial quantity and it is *prima facie* doubtful whether the provisions of Section 21(c) read with Section 29 of NDPS Act would apply to the petitioner.

8. Since the petitioner is apprehended only with 21 grams, which is an intermediate quantity, I am also of the view that the rigours of Section 37 of the NDPS Act *prima facie* will not apply to the petitioner. The petitioner has been in custody since 03.05.2024. The investigation is complete, charge-sheet has also been filed and the petitioner is not required for custodial interrogation. The trial is also not likely to conclude in the near future and the continued incarceration of the petitioner will not serve any purpose.

9. For the aforesaid reasons, the petition is allowed and the petitioner is directed to be released on regular bail in FIR No. 92/2024, under Sections 21/25/29 NDPS Act, registered at Police Station – Crime Branch, subject to the following terms and conditions:

- (a) The applicant shall furnish a personal bond in the sum of Rs. 10,000/- (Rupees Ten Thousand Only) with one surety of the like amount to the satisfaction of the concerned Trial Court;



- (b) The applicant shall join investigation as and when called by the concerned IO, and the applicant shall appear before the concerned Court as and when the matter is taken up for hearing.
 - (c) The applicant shall provide his mobile number to the concerned IO, which shall be kept in working condition and switched on at all times. In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned IO as well as to the concerned Court.
 - (d) The applicant shall not leave the country without permission of the concerned Court during the bail period and surrender his passport, if any, at the time of release before the concerned Court.
 - (e) The applicant shall not directly/indirectly try to get in touch with any prosecution witnesses or tamper with the evidence.
10. Nothing stated hereinabove shall tantamount to an expression of opinion on the merits of the case.
11. The petition is disposed of accordingly.
12. A copy of this order be communicated electronically to the concerned Jail Superintendent for information and necessary compliance.
13. *Dasti.*

JASMEET SINGH, J

NOVEMBER 19, 2024

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[Click here to check corrigendum, if any](#)