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

+ **BAIL APPLN. 3459/2024**

PARVEEN KUMAR

.....Petitioner

Through: Mr.Kundan Kumar, Advocate

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Mr.Hemant Mehla, Advocate with
ASI Balraj, PS Narela Industrial Area.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

% **15.10.2024**

1. The present petition under Section 439 Cr.P.C./483 of the BNSS has been filed by the petitioner seeking regular bail in relation to FIR No.485/2024 at Police Station Narela Industrial Area registered under Section 20(b)(ii) of the NDPS Act.
2. The case of the prosecution is that on 14.5.2024, the accused was apprehended with a black bag in C Block Jhuggi, near Munak Nahar on the suspicion of *Ganja* since there had been a smell.
3. Notice under Section 50 of the Act was given to the accused, he was explained about his rights in vernacular language, however, he refused to get his search done in presence of any gazetted officer or magistrate. Subsequently, ACP Narela reached the spot and proceed to search the accused's black bag.



4. It was found to contain 43 packets which were filled with “grassy tobacco like substance” (*Tambakoo jaisa ghassnuma padarth*). The bag also contained other empty packets with staplers and a total of Rs. 2,110. Total weight of the purported contraband was 1,780 grams. The same was seized, FIR was registered and the petitioner was sent to judicial custody subsequently.

5. The investigation is complete and charge sheet has been filed.

6. Learned counsel for the petitioner states that this is an intermediate quantity slightly more than the small quantity of one kilogram, even if it is assumed that it is *ganja*.

7. APP for the State, opposed the prayer made by the petitioner and submitted a copy of the status report. The same is taken on record.

8. Main contention of the learned counsel of the petitioner is that the substance as per the charge sheet itself is the tobacco kind of substance and cannot be categorised as *ganja* considering the definition under Section 2 (iii) (b) of the NDPS Act, which mandates that, *ganja* includes the “flowering or fruiting tops of the *cannabis plant*”. As per the SCRB report, there are three previous involvements of the accused, under the Delhi Excise Act, 2009. The petitioner has been in custody since 15th May 2024.

9. Considering that the investigation is complete, charge sheet has been filed, and there is some doubt relating to the nature of the substance which was seized, the custody of the petitioner cannot be extended.

10. In light of the above, and that the trial in the matter is likely to take some time, and it would not be prudent to keep the petitioner behind bars for an indefinite period, this Court finds it to be a fit case for grant of bail to the petitioner. Consequently, the petitioner is directed to be released on bail on



furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount subject to the satisfaction of the Trial Court, further subject to the following conditions:

- i. Petitioner will not leave the country without prior permission of the Court.
 - ii. Petitioner shall provide permanent address to the Trial Court. The petitioner shall intimate the Court by way of an affidavit and to the IO regarding any change in residential address.
 - iii. Petitioner shall appear before the Court as and when the matter is taken up for hearing.
 - iv. Petitioner shall join investigation as and when called by the IO concerned.
 - v. Petitioner shall provide all mobile numbers to the IO concerned which shall be kept in working condition at all times and shall not switch off or change the mobile number without prior intimation to the IO concerned.
 - vi. Petitioner will mark presence physically before the concerned I.O. on first Monday of every month at 4 p.m., and will be not kept waiting for more than an hour.
 - vii. Petitioner shall not indulge in any criminal activity and shall not communicate with or come in contact with any of the prosecution witnesses, the complainant/victim or any member of the complainant/victim's family or tamper with the evidence of the case.
11. Needless to state, but any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall



not be construed as an expression on merits of the matter.

12. Copy of the order be sent to the Jail Superintendent for information and necessary compliance.

13. Accordingly, the petition is disposed of. Pending applications (if any) are disposed of as infructuous.

14. *Dasti*

15. Order be uploaded on the website of this Court.

ANISH DAYAL, J

OCTOBER 15, 2024

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