



\$~10

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

+ **BAIL APPLN. 3545/2024**

ARUL PANDIAN

.....Petitioner

Through: **Ms.K.Vaijaynathi and Mr.Nagender,**
Advts.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: **Mr.Mukesh Kumar, APP for the**
State.

ASI Randhir Singh, WR-I, Crime
Branch, Rajouri Garden, Delhi

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

14.11.2024

%

1. Present petition has been filed for grant of regular bail under Section 483 Bhariya Nagrik Surakasha Sanhita, 2023 read with Section 439 Cr.P.C. in case FIR no.290/2023, PS Crime Branch registered under Section 20(B) (II-C)/29 N.D.P.S.
2. The case of the prosecution in brief is that on 18.12.2023, a secret information regarding a supplier of Narcotics substance was received on which the raid was conducted at F-Block Road, Gandhi Vihar, Gopalpur Delhi. The prosecution's case is that on informer's tip, co-accused Harsh Vardhan was apprehended and 22.786 kgs. of Cannabis (Ganja) was recovered from his possession. It has been submitted that during the course of investigation the co-accused Harsh Vardhan disclosed that he has purchased the recovered from one Biswajit



Mahapatra @ 'DJ' belonging to Nayagarh, Odisha and sold this contraband to his customers in Delhi through WhatsApp. It has been alleged that Harsh Vardhan was in touch with Biswajit Mahapatra through normal calls as well as WhatsApp Chats. It has been further case of the prosecution that during the course of investigation the petitioner was identified as associate of Harsh Vardhan. Learned counsel for the petitioner submits that the petitioner is in custody since 28.12.2023. Learned counsel submits that no recovery has been effected from the possession of the petitioner. It has further been submitted that co-accused Biswajit Mahapatra has also been admitted to bail by this court in Bail Appl.3415/2024 vide order dated 05.11.2024.

3. Learned APP submits that he has filed the status report, a hard copy of which has been shared in the court today. Let the status report be brought on record.
4. Learned APP has opposed the application on the ground that the petitioner is a drug peddler, who used to sell the contraband received from main accused Harsh Vardhan. It has further been submitted that the mobile phone of the petitioner was recovered from him in which SIM No.8130415740 and 8448918584 were found active. It has also been submitted that there is an evidence of Paytm QR Code, photographs of contraband were found. It has been also been submitted that investigation has revealed that the petitioner was in touch with main accused Harsh Vardhan through WhatsApp mobile no.No.8130415740.
5. In *Deepak Nangiya v. State (NCT of Delhi)*, 2023 SCC OnLine Del



5641, it was inter alia held that disclosure statement of co-accused under Section 67 of the NDPS Act is not admissible per se in view of the decision of the Supreme Court in *Tofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1. In *State of Haryana v. Samarth Kumar* : (Crl.A.1005/2022), it has been observed that the advantage of Tofan Singh (supra) perhaps can only be taken at the time of arguing the regular bail application or at the time of final hearing after conclusion of the trial.

6. It was further inter alia held that in so far as the CDRs are concerned, the evidentiary value of the same shall be seen at the stage of the trial and it cannot be a ground to deny bail to the petitioner.
7. Reliance can also be placed on *Amit Ranjan v. Narcotics Control Bureau, Delhi*, 2022 SCC OnLine Del 1532. In this case, similar principles were upheld regarding the inadmissibility of confessional statements under Section 67 of the NDPS Act and the consideration of CDRs at the trial stage.
8. In view of the facts mentioned above and that since no recovery has been effected from the possession of the petitioner and evidence of being in constant touch with the main accused is a matter of trial, the petitioner is admitted to regular bail upon furnishing a personal bond of Rs. 20,000/- with one surety of the same amount, subject to the satisfaction of the learned Trial Court subject to verification of his address and subject to the following conditions:

- a) the Petitioner shall cooperate in the investigation and appear before the Investigating Officer of the case as and when



required;

- b) the Petitioner shall under no circumstances leave India without prior permission of the Court concerned;
 - c) the petitioner shall report to concerned SHO/IO once in a month;
 - d) the Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
 - e) the Petitioner shall provide his mobile number(s) to the Investigating Officer and shall keep it operational at all times;
 - f) In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
9. The petition stands disposed of.
10. A copy of this order be sent to concerned jail superintendent for necessary compliance.

DINESH KUMAR SHARMA, J

NOVEMBER 14, 2024

Rb/na