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

+ **BAIL APPLN. 3763/2024**

NEERAJ BHUJEL

.....Petitioner

Through: Mr. Rahul Dev Tyagi, Ms. Sangeeta Tyagi, Mr. T.N. Tyagi, Mr. Ritesh Kain, Mr. Akshat Shandilya and Mr. Rajat Kain, Advs.

versus

THE STATE GOVT. OF NCT OF DELHI AND ANR.

.....Respondents

Through: Mr. Laksh Khanna, APP for State with SI Rajender, PS Crime Branch.

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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18.10.2024

CRL.M.A. 31260/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application is disposed of.

BAIL APPLN. 3763/2024

1. By way of present bail application, the applicant/petitioner seeks regular bail in FIR No. 157/2020 registered under Sections 20/25/29 NDPS Act, 1985 at Police Station Crime Branch.
2. Learned counsel for the applicant/petitioner submits that the applicant is in custody since 14.10.2020. He submits that the chargesheet in the present case came to be filed on 13.04.2021 and the charges were framed on 29.04.2022. The prosecution has cited a total of 22 witnesses, out of which 8/9 witnesses have been examined till date. He further submits that the



recovery was shown to be effected at the instance of the applicant as well as the co-accused on a joint disclosure. He further submits that the applicant is not involved in any other case.

3. Learned APP for the State submits that there is no personal recovery, however, the recovered substance being 5 kgs of Charas was recovered at the instance of the applicant and the co-accused, who is his real brother.

4. At this stage, it is apposite for the Court to refer to a decision of the supreme court in Rabi Prakash v. State of Odisha reported as **2023 SCC OnLine SC 1109**, where the accused had remained incarcerated for more than three and a half years, the Supreme Court, while releasing the applicant on bail, observed that:-

“xxx

4... The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.

xxx

6. Consequently, while directing that the petitioner shall be released on bail on his furnishing bail bonds to the satisfaction of the Trial Court...

xxx”

5. More recently, in Man Mandal and Anr. v. State of West Bengal reported as **2023 SCC OnLine SC 1868**, while taking into account continued custody of more than two years, the accused was granted bail. The relevant extract of observations is extracted hereunder :-

“xxx

5. Learned counsel appearing for the State submitted that in view



of the statutory restrictions under Section 37 of the NDPS Act and the quantity being commercial in nature, the present special leave needs to be dismissed.

6. Taking into consideration the fact that the petitioners have been incarcerated for a period of almost two years and the trial is not likely to be taken up for hearing in the immediate near future, we are inclined to grant bail to the petitioners.

7. The petitioners are directed to be released on bail in connection with aforesaid FIR, on such terms and conditions as may be imposed by the Trial Court.

xxx”

6. Considering the totality of the facts and circumstances of the case and the period of custody of four years and the fact that till date only 8/9 witnesses have been examined and 13 are yet to be examined, it is directed that the applicant be released on regular bail subject to his furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the concerned Jail Superintendent/Duty J.M./Link JM/ Trial Court and subject to the following conditions:-

- i) The applicant shall not leave the NCR without prior permission of the concerned Court.
- ii) The applicant shall provide his mobile number to the Investigating Officer on which he will remain available during the pendency of the trial.
- iii) In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.
- iv) The applicant shall not directly/indirectly try to get in touch with the complainant or any other prosecution



witnesses or tamper with the evidence.

v) The applicant shall regularly appear before the concerned Court during the pendency of the trial.

7. The bail application is disposed of in the above terms.
8. Copy of the order be communicated to the concerned Jail Superintendent electronically for information.
9. Copy of the order be uploaded on the website forthwith.
10. Needless to state that this Court has not expressed any opinion on the merits of the case and have made the observations only with regard to present bail applicant and nothing observed hereinabove shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case as the same has been expressed only for the purpose of the disposal of the present bail application.

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MANOJ KUMAR OHRI, J

OCTOBER 18, 2024

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