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

+ BAIL APPLN. 3976/2024

AJAY

.....Petitioner

Through: Mr. Suraj Prakash Sharma, Adv.

versus

THE STATE(N.C.T. OF DELHI)

.....Respondent

Through: Mr. Amit Ahlawat, APP for State.

SI Sudhir Kumar, ANTF/Crime Branch

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

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29.11.2024

1. This petition seeks regular bail in FIR No.180/2024 registered under Sections 20/25/29 of NDPS Act at P.S. Crime Branch, Delhi. Petitioner was arrested on 13th September 2024.

2. Case of the prosecution is based on seizure of 22 kgs of *Ganja* from one Dharmender Shah on 9th September 2024 near Vijay Ghat. Personal search of Dharmender Shah was conducted but nothing was received from his person. From the search of taxi in which Dharmender Shah was using, produced two bags and one polythene; bundles were opened up and seized. FIR was registered and further investigation ensued; taxi driver Pritam and Dharmender Shah were arrested. During interrogation, it is alleged that Dharmender Shah disclosed that he had earlier indulged in trafficking of *Ganja* along with petitioner and they have again started supplying *Ganja*.

3. Raids were conducted at petitioner's premises but no recovery was made. Petitioner was, however, arrested; according to prosecution, since he also disclosed that he was earlier involved in supply of *Ganja* with Dharmender Shah.

4. Counsel for petitioner contends that aside from their disclosure and CDR connectivity, there is no other evidence with the prosecution. The CDR



connectivity was alleged to be around the time of court appearances of petitioner and the co-accused Dharmender Shah.

5. APP for the State has however, provided a chart of CDR connectivity of various calls made over many months between petitioner and the co-accused Dharmender Shah.

6. Counsel for petitioner has relied upon order of a Coordinate Bench dated 21st October 2024 in ***Abdul Hamid @ Chhote v State*** in BAIL APPLN. 3821/2024 where in similar circumstances, bail has been granted to petitioner despite the fact that there were 119 calls between them.

7. Taking into account these facts and circumstances and considering the disclosure statements cannot be relied upon as per the decision of Supreme Court in ***Tofan Singh v State of Tamil Nadu*** (2021) 4 SCC 1, as also various judgments on CDR connectivity that proof of CDR connectivity cannot be relied upon simplicitor, in many previous decisions *inter alia* ***Ajmal T.A. @ Kuru v State*** SLP (Crl.) No(s). 6599/2023, ***Phundreimayum Yas Khan v State (NCT of Delhi)*** 2023 SCC OnLine Del 135, ***Usha Devi v The Govt. of NCT of Delhi*** 2024:DHC:5229 and ***Badakulu Ladu @ Sushant v State*** 2024:DHC:7038.

8. Considering these circumstances, the rigours of s. 37 NDPS are met, and this Court is inclined to grant bail to petitioner and consequently, the petitioner is directed to be released on bail on furnishing a personal bond in the sum of Rs. 50,000/- 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. every first and third Thursday of each 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.

9. 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.

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

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

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

ANISH DAYAL, J

NOVEMBER 29, 2024/sm