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

+ **BAIL APPLN. 372/2024 & CRL.M.A. 3223/2024**

JOY MITRA

.....Applicant

Through: Mr. Abhishek Kaushik,
Mr. Vivek Kumar and Dr.
Priyanka, Advs.

versus

NARCOTICS CONTROL BUREAU
DELHI

.....Respondent

Through: Mr. Arun Khatri, SSC
(through VC)
Mr. Sachin Kumar, IO,
NCB.
Ms. Shelly Dixit, Adv.

+ **BAIL APPLN. 375/2024 & CRL.M.A. 3254/2024**

JYOTIKA SINGH

.....Applicant

Through: Mr. Abhishek Kaushik,
Mr. Vivek Kumar and Dr.
Priyanka, Advs.

versus

NARCOTICS CONTROL BUREAU
DELHI

.....Respondent

Through: Mr. Arun Khatri, SSC
(through VC)
Mr. Sachin Kumar, IO,
NCB.

Ms. Shelly Dixit, Adv.

+ **BAIL APPLN. 386/2024**

P VIJAI PRANAV

.....Applicant

Through: Mr. Lewish Edward and
Mr. Vignesh P., Advs.

versus

NARCOTICS CONTROL BUREAU

.....Respondent



Through Mr. Arun Khatri, SSC
(through VC)
Mr. Sachin Kumar, IO,
NCB.
Ms. Shelly Dixit, Adv.



CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

29.04.2025

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1. The present applications are filed seeking pre-arrest bail in NCB Case No. VIII/16/DZU/2023 for offences under Sections 8 (c), 22(c), 23(b), 27A and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('**NDPS Act**').
2. The brief facts of the case are that on 19.04.2023 a secret information was received that 28 parcels lying at DTDC Express Limited, Samalkha, New Delhi are suspected to contain narcotic drugs and psychotropic substances. On the basis of the said information, a team was constituted, and a seizure of 807 LSD Blots and 44.70 grams of cocaine was made from the 28 parcels at the office of the DTDC Express Limited.
3. The sender's name on all these 28 parcels were the same being AASK & Associates, Vipul Business Park, 910, Badshahpur-Sohna RD HWY, Sector 48, Gurugram, Haryana 122018 Mob no. 9999665700. Out of these 28 parcels – one parcel bearing no. Z13669457 was recovered, and on being checked, it was found to contain 25 LSD blots weighing 0.41 grams and 1.29 grams of cocaine. The receiver's name and address on the said parcel was that of the applicant – Jyotika Singh. Further, the said parcel contained the mobile number of the applicant – Joy Mitra.
4. The team further opened one parcel bearing no. Z13669464 which was found to contain 10 LSD blots weighing



0.17 grams. The name, address and phone number reflecting on the said parcel bearing no. Z13669464 was found to be that of the applicant - P Vijai Pranav.

5. During the course of the investigation, accused Naveen Fogat @ Zambada cartel (alleged sender of the seized contraband) was arrested on 20.07.2023. During the analysis of the phone of the accused Naveen Fogat, the booking slip of courier bearing AWB No. 1447629439 was allegedly recovered which contained the details of applicant – Jyotika Singh and was also allegedly received by the applicant – Jyotika Singh on 16.04.2023.

6. Further, on the examination of the phone of the accused Naveen Fogat, the booking slip of another parcel bearing AWB No. 1447629433 was received which contained the details of the applicant – P Vijai. It is alleged that the said parcel was received by the applicant – P Vijai on 17.04.2023.

7. The learned counsel for the applicants – Joy Mitra and Jyotika Singh submits that the applicants have been falsely implicated in the present case. He submits that no recovery of any contraband was effected from the present applicants. He submits that a mere seizure of a parcel that allegedly contained contraband and mentions the name and address of the applicant - Jyotika or phone number of the applicant – Joy Mitra on the box, is not sufficient to establish complicity of the applicants in the trafficking of drugs.

8. He submits that the applicants had no knowledge about the said parcel, and submits that the name, address and phone number of the applicants have been misused in order to falsely implicate them in the present case. He submits that the applicants have already joined and cooperated with the investigation.



9. He submits that the prosecution has failed to point towards a live link between the recovery of the contraband and its connection with the applicants so as to attract the embargo under Section 37 of the NDPS Act.

10. The learned counsel for the applicant – P Vijai submits that the applicant has been falsely implicated in the present case. He submits that the prosecution has failed to point towards any incriminating material to implicate the present applicant. He submits that merely because the parcel mentioned the name and address of the applicant, the same is not sufficient to create a live link between the recovery of the contraband and the applicant. He submits that the details of the applicant have been misused to falsely implicate the applicant in the present case and even otherwise the name mentioned in the parcel, that is, “Vijay” is not the applicant’s name.

11. *Per contra*, the learned counsel on behalf of the NCB vehemently opposes the grant of any relief to the applicants. She submits that one of the parcels bearing no. Z13669457 seized at the DTDC office contained the name and address of the applicant – Jyotika and the phone number of the applicant – Joy. She submits that a recovery of 25 LSD blots weighing 0.41 grams and 1.29 grams of cocaine was made from the said parcel. She submits that the parcel bearing no. Z13669464 contained the details of the applicant – P Vijai from which a recovery of 10 LSD blots was made. She submits that given the commercial quantity of the seized contrabands, the bar under Section 37 of the NDPS Act is attracted in the present case.

12. She submits that prior to the seizure of the parcels, the applicant – Jyotika had received a parcel on 16.04.2023, the booking receipt of which was obtained from the phone of the



accused Naveen Fogat. She submits that likewise, prior to the seizure of the parcels the applicant – P Vijai had received a parcel on 17.04.2023, the booking receipt of which was also obtained from the phone of the accused Naveen Fogat. She submits that the same corroborates the case of the prosecution that the applicants are involved in the illicit trafficking of drugs.

13. I have heard the learned counsels and perused the record.

14. It is essentially the case of the prosecution that certain parcels were seized from the DTDC office from which a recovery of contraband has been effected. It is alleged that one of the parcels bearing no. Z13669457 was booked in the name and under the address of the applicant – Jyotika, and the said parcel mentions the phone number of the applicant – Joy Mitra from which a recovery of 25 LSD blots weighing 0.41 grams and 1.29 grams of cocaine was made. It is further the case of the prosecution that another parcel bearing no. Z13669464 was destined to the applicant – P Vijai and that the said parcel contained his address and phone number from which a recovery of 10 LSD blots was made.

15. It is argued by the learned counsel for the applicants that the applicants had no knowledge about the aforesaid parcels and their details have been misused to place the orders.

16. On the other hand, it is argued on behalf of the prosecution that the applicants are actively involved in the commission of the offence. It is further contended that certain booking slips were also found on the mobile phone of the accused Naveen (alleged sender of the seized contraband) in relation to two parcels which were allegedly received by the applicant Jyotika and the applicant P. Vijai prior to seizure of the concerned parcels, which corroborates the involvement of the applicants.



17. The counsel for the applicants have denied that the applicants ever received any parcels and stated that the tracking slips, barely bearing the name of the applicants, are insufficient, and do not materialise the complicity of the applicants in the commission of the alleged offence.

18. It is relevant to note that despite having seized the devices of the applicants, the prosecution has been unable to pin any financial trail or conversations/ chats thereby establishing a link between the recoveries and the applicants. Insofar as the prior deliveries are concerned, it is undisputed that the said parcels were not recovered and there is nothing to show that the same contained any contraband at this stage. The applicants have also denied having received the said parcels.

19. Whether the applicants were involved in the commission of the offence or not would be a subject matter of trial and cannot be ascertained at this stage. The primary material against the applicants at this stage is that their details had been used on the seized parcels. It is however relevant to note that no other material has been brought forth to draw a nexus between the applicants, the recovery and their complicity in the offence. In such circumstances, *prima facie*, the possibility of the applicants' details being misused and them being innocent cannot be ruled out.

20. Although this Court is conscious that it should exercise restraint in the grant of pre-arrest bail in NDPS cases, in the peculiar facts of the present case, in the absence of any direct recovery from the applicants and considering that the investigation is already complete, in the opinion of this Court, no purpose would be served by subjecting the applicants to incarceration. The prosecution has also not put forth any cogent



arguments as to why the arrest of the applicants is required in the present case.

21. Inasmuch as the bar under Section 37 of the NDPS Act is concerned, it is trite law that when there is no material to link the applicants with the recovery of the commercial quantity of contrabands, the rigors of Section 37 of the NDPS Act would not apply.

22. It has been pointed out that some of the other co-accused persons have already been enlarged on bail on account of the delay in trial. While there is a difference between the considerations in grant of regular bail and pre-arrest bail, it cannot be ignored that the trial is unlikely to conclude expeditiously. No purpose will be served by subjecting the applicants to suffer the threat of impending arrest, only for them to be granted regular bail at a later stage on the ground of delay.

23. The applicants—Joy and Jyotika were granted interim protection by this Court by common order dated 01.02.2024. The applicant P. Vijai was granted interim protection by this Court by order dated 02.02.2024. It is relevant to note that the applicants had joined the investigation, even prior to the grant of interim protection by this Court. It is not disputed that the applicants have not only joined the investigation but have also cooperated with the same. Furthermore, it is not disputed that the applicants have clean antecedents.

24. The purpose of custodial interrogation is to aid the investigation and is not punitive. In the opinion of this Court, the custodial interrogation of the applicants is not required in the facts of the present case.

25. No apprehension has been expressed that the applicants will evade the trial. Even otherwise, any apprehension regarding



the applicant fleeing from justice, tampering with evidence or not cooperating with the investigation can be taken care of by putting appropriate conditions.

26. In the opinion of this Court, the applicants have made out a *prima facie* case for grant of bail.

27. In view of the above, the present applications are allowed and the applicants, in the event of arrest, are directed to be admitted on bail on furnishing a personal bond for a sum of ₹25,000/- with two sureties of the like amount, subject to the satisfaction of the concerned SHO, on the following conditions:

- a. The applicants shall join and cooperate with the investigation as and when directed by the IO;
- b. The applicants will not leave the boundaries of the country without the permission of the learned Trial Court;
- c. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- d. The applicants shall appear before the learned Trial Court as and when directed;
- e. The applicants shall give their mobile number to the concerned IO/SHO and shall keep their mobile phones switched on at all times;
- f. The applicants shall provide the address of their residence to the IO/SHO and shall not change the same without informing the concerned IO/SHO.

28. In the event of there being any violation of the stipulated conditions, it would be open to the State to seek redressal by filing an application seeking cancellation of the bail.



29. It is clarified that the observations made in the present order are for the purpose of deciding the present pre-arrest bail application, and should not influence the outcome of the Trial and should not be taken, as an expression of opinion, on the merits of the case.

30. The bail applications are allowed in the aforesaid terms.

31. A copy of this order be placed in all the matters.

AMIT MAHAJAN, J

APRIL 29, 2025