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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 814/2024

MANPREET SHARMA

.....Petitioner

Through: Mr. Amjad Khan with Mr. Sumit Kumar, Mr. Amit, Mr. Aditiya Kumar and Mr. Vikas Tomar, Advocates.

versus

CUSTOMS

.....Respondent

Through: Mr. Arun Khatri, SSC with Ms. Shelly Dixit, Mr. Sabastian and Ms. Anoushka, Advocates.
SI Sandeep Kumar, P.S.: Gulabi Bagh.

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HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

06.02.2025

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This matter is listed today since 05.02.2025 was declared a holiday.

2. By way of the present petition filed under sections 439/482 of the Criminal Procedure Code 1973 ('Cr.P.C.'), the petitioner seeks regular bail in Complaint Case No. VIII(AP)10/P&I/3174-C/ARRIVAL/2021 dated 12.10.2021 registered under sections 8/21/23/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act') by the Air Customs Officer, IGI Airport, New Delhi.
3. Notice on this petition was issued on 06.03.2024, pursuant to which Status Report dated 29.05.2024 has been filed.
4. Nominal Roll dated 10.04.2024 has also been received from the Jail Superintendent.



5. Mr. Amjad Khan, learned counsel appearing on behalf of the petitioner submits, that the petitioner has been implicated in the present case based on the allegation that on his return from Uganda to India the petitioner was found in possession of 977 grams of heroin, which was recovered from the cavity of the handles of 02 'trolley bags' (strolley bags) which were carried as checked-in baggage in the petitioner's name.
6. Mr. Khan submits that the petitioner, who is ordinarily a resident of Gurdaspur, Punjab, had gone to Uganda on 07.04.2021 on a promise made by one Tejinder Sharma, who is accused No.3 in the case, that he would get the petitioner a job in that country.
7. Learned counsel submits however, that the petitioner did not get any job in Uganda and had to return; and when he was flying back to India on 23.04.2021 on a ticket booked by Tejinder Sharma, 02 trolley bags were booked in his name, without the petitioner having any knowledge of the contents of the bags.
8. Mr. Khan submits, that upon arrival at the IGI Airport, New Delhi, the petitioner was accosted by Customs Officials; his bags were searched and it is alleged that 08 polythene packets containing a white powdery substance weighing about 977 gms. was recovered from the cavity of the handles of those bags, which substance tested positive for 'heroin'.
9. Learned counsel states, that as admitted in the criminal complaint filed in the case, the alleged white powdery substance recovered from the two bags was *collected* in a certain plastic container, that is to say it was *mixed*; and that therefore there is no evidence as to the actual weight of the *contraband* allegedly recovered from the trolley bags.



Moreover, learned counsel contends, that there is also no material on record to connect the petitioner to *any of the contents* of the bags. That is to say, there is nothing to show that the contents of the two bags belonged to the petitioner, since it is the petitioner's case that he had nothing to do with the content of the bags, and it is only that the two bags had been checked-in on the petitioner's air-ticket.

10. In this backdrop, Mr. Khan submits that it be appreciated that the prosecution has cited 21 witnesses but only the examination-in-chief of 02 of those 21 witnesses has been recorded so far, while in the meantime the petitioner has undergone judicial custody of about 3½ years as an undertrial, with his overall jail conduct being 'satisfactory' and with the petitioner having no other criminal involvements.
11. Mr. Khan argues, that the petitioner was only 19 years of age at the time of his arrest; and was enticed by the prospect of a job in Uganda but no job was given to him; and he was instead embroiled in the present offence, without any knowledge or intention on his part.
12. Opposing the grant of bail, Mr. Arun Khatri, learned SSC appearing on behalf of the respondent submits, that the petitioner was caught with 977 grams of heroin at the IGI Airport, New Delhi which was recovered from two trolley bags which were booked on the petitioner's air-ticket, thereby directly connecting the petitioner with the contraband recovered.
13. Furthermore, Mr. Khatri submits, that since contraband was secreted away in the cavities of the trolley bags, it shows the petitioner's intention to conceal the contraband.



14. Learned SSC states that the threshold of 'commercial quantity' of heroin is 250 grams; and given that 977 grams of heroin was recovered from the petitioner's bags, the rigours of section 37 of the NDPS Act would be attracted.
15. Mr. Khatri further contends that 986 grams of heroin was also recovered from the petitioner's co-passenger, namely co-accused Ajit Pal Singh; and accordingly, the total quantity of recovery made from the petitioner and his co-accused was 1.936 kilograms; and the petitioner would be answerable for the entire quantity of contraband recovered, in view of section 29 of the NDPS Act.
16. Insofar as the question of delay in trial is concerned, learned SSC argues that 02 witnesses have recorded their examination-in-chief and efforts can be made to expedite the trial.
17. Upon a conspectus of the facts and circumstances of the case, what prevails with the court at this stage are the following considerations :
 - 17.1. *One*, that though 977 grams of contraband is alleged to have been recovered from the petitioner, that recovery has been made from the cavities in the handles of two bags, which the customs alleges, had been checked-in on the petitioner's air-ticket. However, there appears to be nothing on record to show that the contents of the two bags belonged to the petitioner. There is therefore nothing on record, at least at this stage, to show the petitioner's connection with the two bags, except that they had been checked-in on the flight on his air-ticket;
 - 17.2. *Two*, and most importantly, the petitioner is a young man, who was only about 19 years old at the time of his arrest, and has



already suffered judicial custody of about 3½ years as an undertrial, whereas only the examination-in-chief of 02 of the 21 prosecution witnesses has been completed so far. Evidently therefore, trial in the matter will take a very long time to conclude; and this court would be loathe to keeping the petitioner in custody any longer, while his right to speedy trial guaranteed under article 21 of the Constitution is being negated.

18. Accordingly, on an overall consideration of the facts of the case, this court is persuaded to grant to the petitioner – ***Manpreet Sharma s/o Surender Pal*** – regular bail pending trial, subject to the following conditions :

- 18.1. The petitioner shall furnish a personal bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand Only) with 02 sureties in the like amount from family members, to the satisfaction of the learned trial court;
- 18.2. The petitioner shall furnish to the Investigating Officer ('I.O') a cell-phone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched-on at all times;
- 18.3. If the petitioner has a passport, he shall surrender the same to the learned trial court and shall not travel out of the country without prior permission of the learned trial court;
- 18.4. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise



indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial; and

- 18.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing.
19. Since the petitioner is facing trial and is therefore appearing before the learned trial court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.
20. It is further directed that the petitioner shall scrupulously attend every date of hearing before the learned trial court, unless exempted from personal appearance by the learned trial court, on an application moved prior to a date of hearing.
21. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
22. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
23. The petition stands disposed-of in the above terms.
24. Pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 6, 2025
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