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

+ **BAIL APPLN. 2416/2021 & CRL.M.A. 21618/2023**

SHAKIR ALI

.....Petitioner

Through: Mr. Vineet Chadha, Advocate
(through Vc).

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for the State
with Insp. Rakesh Kumar, P.S. Spl.
Cell/NR.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

21.04.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 439 of the Cr.P.C. seeks regular bail in case FIR No. 40/2015, under Sections 21/22/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act') and Section 174A of the IPC, registered at P.S. Special Cell, Delhi.
3. The case of the prosecution *qua* the present applicant is that on monitoring of interception of certain mobile numbers suspected to be used by drug suppliers as well as receipt of requisite intelligence regarding movements of such suppliers, on 24.05.2015, a secret information was received that at about 01:25 PM, one Rampal would go towards Durga Puri Chowk *via* Loni Gol Chakkar upon his motorcycle. After complying with the necessary proceedings, the said Rampal was apprehended and 1 kilogram of



heroin was recovered from the dicky of his motorcycle. It is further alleged that on sustained interrogation, accused Rampal disclosed that he had been indulging in the supply of heroin in Delhi and the recovered heroin was purchased from a person namely Ved Prakash @ Mistri. He further disclosed that he also used to get heroin from one Shabrati Shah @ Sabir and Fayum who were both the residents of Mandsaur, Madhya Pradesh. It is further alleged that during investigation, co-accused Ved Prakash @ Mistri was arrested from Badaun, Bareilly, Uttar Pradesh, on pointing out of the co-accused Rampal, who also disclosed that he had supplied 1 kilogram of heroin which was recovered from Rampal.

4. During investigation, on 29.05.2015, one Shabrati Shah @ Sabir was also arrested and 5 kilograms of opium was recovered from him. During further investigation, name of the present applicant had also surfaced and it is alleged that despite various raids, the applicant could not be apprehended and, accordingly, he was declared a Proclaimed Offender by the learned Trial Court on 12.10.2015. Thereafter, it is alleged that the present applicant was arrested on 08.01.2016 from Bareilly, Uttar Pradesh. On apprehension, 1 kilogram of heroin and 1 kilogram of phenobarbital was recovered and, thereafter, further recovery of 10 kilograms of acetic anhydride was recovered from his house during PC remand.

5. Learned counsel appearing on behalf of the applicant submits that the latter was granted interim bail by a Coordinate Bench of this Court *vide* order dated 31.07.2020 in BAIL APPLN. 1951/2019 (CRL.M.(B). 5806/2020). It is submitted that, thereafter, the interim bail granted to the applicant was extended again *vide* order dated 11.11.2020 in CRL.M.A. 14038/2020 and, thereafter, the said interim bail was further extended *vide* order dated



05.01.2021, keeping in view of the directions of the Hon'ble Supreme Court in SLP No. 13021/2020, whereby, the interim bail was further extended till 21.01.2021. The said interim bail granted to the applicant was again extended *vide* order dated 26.04.2021 in CRL.M.A. 6620/2021 till 16.07.2021.

6. Consequently, the present application was preferred and *vide* order dated 18.01.2024, the learned Predecessor Bench of this Court further extended the interim bail of the applicant till 24.11.2021. On 24.11.2021, the interim bail was extended on the basis of a certain disability certificate issued by the Medical Authority, Bareilly, Uttar Pradesh, that had been produced on behalf of the applicant.

7. Learned counsel appearing on behalf of the applicant submits that the co-accused namely, Rampal, Ved Prakash @ Mistri and Shabrati Shah @ Sabir have already been granted bail. Out of 49 witnesses cited by the prosecution, only 18 witnesses have been examined so far. The applicant was arrested on 08.01.2016 and was granted interim bail for the first time on 31.07.2020. It is submitted that the trial is not likely to be completed in near future. It is further submitted that during the period of interim bail, no circumstances have been brought on record to show that he misused the liberty granted to him.

8. *Per contra*, learned APP for the State, on instructions of the Investigating Officer submits that the present applicant was arrested after being declared a Proclaimed Offender *vide* order dated 12.10.2015 and the commercial quantities have been recovered from the present applicant. It is further submitted that the voice sample had also matched with regard to the intercepted calls which were sent to the FSL. It is further submitted that one the co-accused namely, Shabrati Shah @ Sabir, who was granted bail have



since been declared as a Proclaimed Offender.

9. Heard learned counsel for the parties and perused the records.

10. Admittedly, the present applicant was granted interim bail on 31.07.2020 on the basis of certain medical conditions. It is noted that an application had been preferred by the applicant under Section 329 of the Cr.P.C. before the learned Trial Court with respect to his mental condition to face trial. The said application has been dismissed by the learned Trial Court *vide* order dated 01.03.2025 after the applicant was referred to the Medical Board of IHBAS. So far as the applicant being a flight risk is concerned, it is noted that, thereafter, he was given interim bail by the learned Predecessor Bench of this Court on 31.07.2020 and nothing has come on record to reflect that the said liberty was misused by the applicant. The present FIR was registered on 24.05.2015 and the charges were framed on 20.10.2017. In the present case, the applicant as noted earlier, was arrested on 08.01.2016 and was granted interim bail by the learned Predecessor Bench of this Court on 31.07.2020. Admittedly, the present applicant has been on interim bail since then. The other co-accused persons, namely, Rampal and Ved Prakash @ Mistri have already been granted bail.

11. The Hon'ble Supreme Court in **Rabi Prakash vs. State of Odisha, 2023 SCC Online SC 1109**, has observed and held as under:-

“2.The prosecution case appears to be that the police party while on patrolling duty on 02.10.2019 at about 12.30 p.m. on Nandapur-Semiliguda road MDR-55, spotted one full body twelve wheeler Truck (Eicher) bearing No.EB-13-BD-5753 coming from Nandapur side at a high speed and accordingly they chased and detained the truck at Bodenga Chhak and found three persons boarded in the said truck including the driver. Eventually, 247 kg. Ganja was recovered from the truck. The petitioner was one of the occupants of the truck and was arrested at the spot. He has been in custody for more than three and a half



years. There are no criminal antecedents against the petitioner.

3. We are informed that the trial has commenced but only 1 out of the 19 witnesses has been examined. The conclusion of trial will, thus, take some more time.

4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent - State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. 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.”

12. In the present case, the prosecution has cited 49 witnesses, out of which only 18 have been examined so far. The trial will take time to conclude. The present applicant has already been on interim bail since 31.07.2020, and no useful purpose will be served by sending him to judicial custody once again.

13. In totality of the facts and circumstances of the case, the applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 1,00,000/- with two sureties of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant is directed to give his mobile number to the Investigating



Officer and keep it operational at all times.

- v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.
 - vi. The applicant shall on being released on bail present himself through video conferencing on Tuesday of each week from the date of his release at P.S. Special Cell.
14. The application is allowed and disposed of accordingly.
15. Pending application(s), if any, also stand disposed of.
16. Needless to state, nothing mentioned hereinabove is an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.
17. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
18. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

APRIL 21, 2025/bsr/sc

Click here to check corrigendum, if any