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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 1706/2024

GAURAV CHOPRA

.....Petitioner

Through: Mr. Aditya Aggarwal with Mr.
Naveen Panwar, Advocates.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Tarang Srivastava, APP for the
State with SI Sandeep Kumar, P.S.:
Narcotics Squad, South District.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

21.01.2025

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Further to what was recorded in order dated 11.12.2024, the court has heard Mr. Aditya Aggarwal, learned counsel appearing for the petitioner; as well as Mr. Tarang Srivastava, learned APP for the State.

2. Mr. Aggarwal submits that the present matter is a case of 'chance recovery'; and even the co-accused persons, namely Ganesh Babu and Shaktivel *alias* Anna, who were arrested basis the petitioner's disclosure statement recorded by the Investigating Officer (I.O.) have been admitted to regular bail by the learned Special Judge (NDPS), Saket District Court. Counsel accordingly seeks the same relief on grounds of parity.
3. Learned counsel for the petitioner points-out that the prosecution has cited 19 witnesses in the charge-sheet; however since charges are yet to be framed by the learned trial court, trial will take a very long time to conclude.



4. Counsel submits that the petitioner is a married man, with a 09-year old son; he has suffered judicial custody of more than 08 months as an undertrial; his overall jail conduct has been 'satisfactory'; and no purpose would be served by detaining him in judicial custody any longer, since investigation in the case is over and chargesheet has also been filed.
5. On the other hand, opposing the grant of bail, learned APP submits that the petitioner cannot claim parity with the co-accused persons who have been granted bail since nothing has been recovered from the said co-accused, however 632 grams of *charas* has been recovered from the Scooty belonging to the petitioner.
6. Learned APP points-out that the petitioner is also a repeat offender and was booked in the present case while he was on bail in 02 other cases were pending against him under the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').
7. Upon a conspectus of the facts and circumstances of the case, the following considerations prevail with the court *at this stage* :
 - 7.1. As per the allegations, 632 grams of *charas* was recovered from the Scooty which is stated to belong to the petitioner, which is an *intermediate* quantity of that contraband. Furthermore, no recovery is alleged to have been made from co-accused persons, namely Ganesh Babu and Shaktivel *alias* Anna. In the circumstances, the rigours of section 37 of the NDPS Act are not attracted to the present case.
 - 7.2. Both the above-mentioned co-accused persons have already been admitted to regular bail by the learned Special Judge *vide* orders



dated 28.10.2024 and 08.11.2024 respectively; and *only* the petitioner is presently in judicial custody in this case.

- 7.3. Though there is an allegation that the petitioner is a repeat-offender since he is implicated in 02 other cases under the NDPS Act, the Nominal Roll dated 19.07.2024 received from the Jail Superintendent shows only 01 such case; and in any event, the petitioner is stated to be on regular bail in both the other matters *viz.* case FIR No. 222/2018 registered under section 20 NDPS Act and section 33 of the Delhi Excise Act, 2009 at P.S.: Hauz Khas, Delhi *and* case FIR No. 407/2020 registered under sections 20/25 NDPS Act at P.S.: Malviya Nagar, Delhi.
- 7.4. Charge-sheet in the present case has already been filed; and the petitioner is facing trial for offences punishable under sections 20/25/29 of the NDPS Act.
- 7.5. The prosecution has cited 19 witnesses in the chargesheet; however charges are yet to be framed against the accused persons; trial has not yet commenced; and it can hardly be doubted that trial in the matter will take substantial time to conclude.
- 7.6. Though this court is conscious of the allegation that the petitioner has committed the offence in the present case while he was on bail in 02 other similar cases referred-to above, it also cannot be overlooked that in all 03 cases the petitioner is only an undertrial as of now and has not suffered any conviction.
8. Upon a balance of all considerations, this court is persuaded to grant to the petitioner – ***Gaurav Chopra s/o Brahm Prakash Chopra*** – *regular*



bail in case FIR No.146/2024 dated 13.04.2024 registered under sections 20/25 of the NDPS Act at P.S.: K.M. Pur, Delhi, pending trial, subject to the following conditions :

- 8.1. 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, *at least one* of which will be from a family member, to the satisfaction of the learned trial court;
- 8.2. The petitioner shall furnish to the Investigating Officer (I.O.)/S.H.O a cellphone 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;
- 8.3. 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;
- 8.4. 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;
- 8.5. In case of any change in his residential address/contact details, the petitioner shall promptly inform the I.O. in writing; and
- 8.6. Though ordinarily this court would not impose a reporting requirement while granting regular bail since the petitioner is facing trial before the learned trial court, however in view of the allegation that the petitioner has multiple involvements under the



NDPS Act, it is deemed appropriate to direct the petitioner to report to the I.O. *once every month* on the last Saturday of each month *for the next 02 years*; and thereafter to report *once every 03 months* on the last Saturday of every third month till the conclusion of the trial.

9. Specific liberty is also granted to the State to file for cancellation of petitioner's bail if the petitioner is found remiss and indulging in any criminal activity.
10. Nothing in this order shall be construed as an expression of opinion on the merits of the pending matter.
11. A copy of this order be sent to the concerned Jail Superintendent *forthwith*.
12. The petition stands disposed-of.
13. Other pending applications, if any, are also disposed-of.

ANUP JAIRAM BHAMBHANI, J

JANUARY 21, 2025

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