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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2339/2024

RACHIDE OMAR SUETE

.....Petitioner

Through: Appearance not given.

versus

CUSTOMS

.....Respondent

Through: Mr. Gibran Naushad, SSC with Mr.
Harsh Singhal, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

07.03.2025

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1. This is a petition seeking grant of regular bail in SC No. 35/2022 arising out of Complaint Case VIII/(AP)(10)P&I/3220-D/ARRIVAL/2021 registered at PS Customs under Sections 8, 21, 23 and 29 of NDPS Act.
2. The brief facts of the case are per the said FIR are that on 17.07.2021, the petitioner at Terminal-3, IGI Airport, New Delhi by Flight No. QR 578 dated 16.07.2021 from Doha to Delhi. The identity of the petitioner was verified from his Passport No. 15AL44369.
3. During the personal search and baggage search of the petitioner and repeated questioning of the petitioner by the Customs Officers, the petitioner voluntarily admitted carrying drugs in 36 capsules which were wrapped with transparent plastic tape that had been swallowed by him and were inside his body. He also informed the officer that the capsules contained heroin.
4. Thereafter, the petitioner excreted the 36 capsules wrapped with transparent plastic tape voluntarily in the presence of the Customs



Officer and the panchas.

5. The total weight of the recovered off-white colored substance, suspected to be narcotics, was found to be 400 grams approximately.
6. On 12.01.2022, the learned ASJ (Spl. Judge NDPS), Dwarka Court, New Delhi took cognizance of the offences under Sections 8, 21, 23 and 28 of NDPS Act.
7. *Vide* the order dated 21.01.2025 passed by this Court, the petitioner was permitted to produce a letter from the Embassy of Mozambique to indicate that the petitioner will be available for trial, if granted bail. It is stated that the same is not possible.
8. In the present case, though the petitioner has been in custody since 21.07.2021 and no witness has been examined out of 20 witnesses, the fact remains that the petitioner is a foreign national and it is probable that he had come to India with the sole objective of indulging in narcotic trade. Thus, the present case involves a serious offence.
9. Even though the right provided under Article 21 of the Constitution of India for speedy trial is of paramount consideration, the fact remains that if the petitioner is granted bail, he may not be available to face trial in India.
10. It is stated that there is a difference in the weight of the contraband seized and sent between the learned Magistrate and the Central Revenues Control Laboratory. I am of the view that this is, at best, a procedural issue which can only be adjudicated upon the trial.
11. Even otherwise, the discrepancy is merely of 1.2 gms and even if the benefit of doubt is given to the petitioner, the quantity seized from him will not make the threshold of small or intermediate quantity.



12. For the said reasons, the petition is dismissed.
13. However, it is expected that the Trial Court will endeavour to conclude the trial expeditiously.
14. In case the same is not done, the petitioner is at liberty to file a fresh bail application at a subsequent time in accordance with law.

JASMEET SINGH, J

MARCH 7, 2025/sp

Click here to check corrigendum, if any