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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 3176/2024**

RAKESH THAKUR ALIAS SUNNY

.....Petitioner

Through: Mr. Rahul Sharma, Mr. Saurabh Dwivedi, Mr. Atul Sharma, Mr. Praveen Shekhar & Mr. Deepak Ghai, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Ajay Vikram Singh, APP for the State.
ASI Sachin Singh, ARSC/Crime Branch.

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

ORDER
03.02.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (Old Section 439 of the Cr.P.C.) seeks regular bail in case FIR No. 44/2023, registered at P.S. Crime Branch under Sections 20/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act').
3. The case of the prosecution as per the status report dated 23.11.2024 authored by Assistant Commissioner of Police, ARSC, Crime Branch, Delhi is that on 19.02.2023, the Duty Officer namely Inspector Robin Tyagi had



received information with regard to the applicant being present near Kalra Hospital, Palam Area along with his associates for collecting his commission from the co-accused Prabhat Sinh @ Bapu, who had got 2 kilograms of *charas* delivered 2-3 days before from Himachal Pradesh through the present applicant.

4. It is the case of the applicant that subsequently, the applicant along with Tarun Guleria @ Tanu, Rahul Chauhan, Aas Mohammad @ Aashu were apprehended and, thereafter, the applicant had disclosed that co-accused Prabhat Sinh @ Bapu would be in the area of Arjun Nagar, Safdarjung Enclave. It is the case of the prosecution that at about 5:44 P.M., the present applicant had received a call on his mobile number from Prabhat Sinh @ Bapu on the basis of which police party apprehended Prabhat Sinh @ Bapu and recovered quantity of 2.2 kg of *charas*. Further, it is the case of the prosecution that the aforesaid Prabhat Sinh @ Bapu in his disclosure statement gave the names of Maheshwar Singh @ Mahesh and Chander Kiran @ Chandru @ Kitanu, who used to provide contacts, logistical support as well as handled financial transactions for him. Subsequently, the aforesaid persons were also arrested. Chargesheet in the present case has been filed on 12.08.2023.

5. Learned counsel appearing on behalf of the applicant submits that there was no recovery of contraband affected from him. It is further stated that the information as received by the Investigating Officer was already to the effect that the aforesaid co-accused Prabhat Sinh @ Bapu was having some contraband. It is submitted that all other accused persons namely Aas Mohammad @ Aashu; Rahul Chauhan; Chander Kiran @ Chandru @ Kitanu; Subrata Maitra, Tarun Guleria @ Tanu; Maheshwar Singh @ Mahesh have



already been granted bail by the learned Trial Court. It is the case of the applicant that his role is similar to the aforesaid accused persons. It is further stated that the CDR connectivity, which is relied upon by the prosecution is a matter of trial and as such there is no conversation recorded.

6. *Per contra* learned APP for the State submits that the present applicant has been prosecuted under Section 29 of the NDPS Act and the matter pertains to commercial quantity of the aforesaid contraband. It is, however, not in dispute that the co-accused persons have already been granted bail by the learned Trial Court.

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

8. Admittedly, no contraband was recovered from the applicant's possession. The applicant was arrested along with the aforesaid accused persons who have already been granted bail.

9. A perusal of the record would reflect that the case of the prosecution that the applicant had to collect some commission, for delivering 2 kilograms of *charas* to the co-accused Prabhat Singh @ Bapu, is based on an alleged statement made by him during his interrogation at the spot. It is also noticed that CDR connectivity relied upon in the status report dated 23.11.2024 with respect to the present applicant was also shown *qua* the aforesaid co-accused person namely Maheshwar Singh @ Mahesh and Tarun Guleria @ Tanu. The learned Trial Court while granting bail to the aforesaid co-accused persons has taken into account the judgment passed by a coordinate bench of this court in **Amit Ranjan v. Narcotics Control Bureau, 2022 SCC OnLine Del 1532** wherein it has been held that the CDR details and monetary transactions are to be considered only at the time of the trial.

10. The applicant has been in custody since 20.02.2023. Trial is at the stage



of consideration on the point of charge. Prosecution has cited 21 witnesses, and the trial is not likely to conclude any time soon. No previous involvement of the applicant is reflected in the status report. In these circumstances, the applicant has made out a case for bail. Further, requirement of Section 37 of the NDPS Act, in the considered opinion of this Court has been satisfied in the present case.

11. In view of the above, applicant is directed to be released on bail on his furnishing Rs. 50,000/- with one surety in the like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to the 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.

12. The application is allowed and disposed of accordingly.

13. Pending application(s), if any, also stand disposed of.

14. 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.



15. Copy of the order be sent to the concerned Jail Superintendent and the learned Trial Court for necessary information and compliance.
16. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

FEBRUARY 3, 2025/nk/sc

Click here to check corrigendum, if any