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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 4633/2024

GULSHAN PRASAD

.....Applicant

Through: Mr. Akshay Bhandari, Mr.
Kushal Kumar, Mr. Anmol
Sachdeva, Ms. Megha &
Mr. Janak Raj Ambawat,
Advs.

versus

NARCOTIC CONTROL BUREAURespondent

Through: Mr. Arun Khatri, SSC for
NCB with Ms. Tracy
Sebastian Adv.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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10.07.2025

1. The applicant seeks regular bail in Case No. VIII/75/DZU/2022, registered at Police Station NCB, Delhi for offences under Sections 8/22/23 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('**NDPS Act**').
2. It is alleged that on a secret information, one parcel lying at DHL Express Pvt. Ltd. Limited, Rama Road, near Kirti Nagar, New Delhi was suspected to be containing Narcotics / Psychotropic substance. Upon seizure and upon being examined, the said parcel was found to be containing 202 strips of Alprazolam Tablets (around 2020 tablets), which is a psychotropic substance.
3. It is alleged that the consignment was booked by the applicant and the consignee's address was given of United Kingdom.
4. The learned counsel for the applicant submits that the

BAIL APPLN. 4633/2024

Page 1 of 5



applicant was falsely implicated in the present case. He submits that the applicant had never booked any such parcel. He submits that the NCB has also not been able to find any evidence to link the applicant with the seized consignment except that the same was booked in the applicant's name.

5. The learned Sr. Standing Counsel for the NCB states that the consignment was booked by the applicant which is also clear from the fact that the copy of the Aadhaar Card of the applicant was also submitted with DHL for booking of the parcel. He submits that the CDR location of the applicant on the date of booking the parcel, that is, on 08.10.2022 also shows that he was present near the said area.

6. He further submits that the applicant has also, in his statement under Section 67 of the NDPS Act, admitted to have booked the parcel. He submits that the case involves recovery of commercial quantity of contraband and the rigours of Section 37 of the NDPS Act would be attracted against the applicant.

7. It is relevant to note that no CCTV footage from the office of DHL was ever seized by the NCB and as observed by the Hon'ble Apex Court in ***Tofan Singh v. The State of Tamil Nadu*** : AIR 2020 SC 5592, the disclosure statement in the absence of any additional corroboration is not admissible in the evidence.

8. The conviction, in the opinion of this Court, solely cannot be based on the CDR location showing the applicant to be near the place where the parcel was booked.

9. It is the case of the applicant that the copy of the Aadhaar Card was misused and the contraband was planted to have been shown to be booked by the applicant.

10. The same would be tested during the course of the trial which shall not be commented upon at this stage. However, it



cannot be ignored that the applicant has already suffered incarceration for more than 30 months and the trial is not likely to conclude in the near future.

11. The applicant was arrested on 30.11.2022 and has been in custody since then. Despite such a long period of incarceration, it is pointed out that only 02 out of 15 witnesses have been examined. It is trite that grant of bail on account of delay in trial and long period of incarceration cannot be said to be fettered by the embargo under Section 37 of the NDPS Act. The Hon'ble Apex Court, in the case of **Mohd. Muslim v. State (NCT of Delhi) : 2023 SCC OnLine SC 352** has observed as under:

“21....Grant of bail on ground of undue delay in trial, cannot be said to be fettered by Section 37 of the Act, given the imperative of Section 436A which is applicable to offences under the NDPS Act too (ref. Satender Kumar Antil supra). Having regard to these factors the court is of the opinion that in the facts of this case, the appellant deserves to be enlarged on bail.

22. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling. According to the Union Home Ministry's response to Parliament, the National Crime Records Bureau had recorded that as on 31st December 2021, over 5,54,034 prisoners were lodged in jails against total capacity of 4,25,069 lakhs in the country²⁰. Of these 122,852 were convicts; the rest 4,27,165 were undertrials.

23. The danger of unjust imprisonment, is that inmates are at risk of “prisonisation” a term described by the Kerala High Court in A Convict Prisoner v. State²¹ as “a radical transformation” whereby the prisoner:

“loses his identity. He is known by a number. He loses personal possessions. He has no personal relationships. Psychological problems result from loss of freedom, status, possessions, dignity any autonomy of personal life. The inmate culture of prison turns out to be dreadful. The prisoner becomes hostile by ordinary standards. Self-



perception changes.”

24. There is a further danger of the prisoner turning to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal”²² (also see Donald Clemmer's ‘The Prison Community’ published in 1940²³). Incarceration has further deleterious effects - where the accused belongs to the weakest economic strata : immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials - especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.”

(emphasis supplied)

12. The Hon’ble Apex Court in the case of **Man Mandal & Anr. v. The State of West Bengal : SLP(CRL.) No. 8656/2023** had granted bail to the petitioner therein, in an FIR for offences under the NDPS Act, on the ground that the accused had been incarcerated for a period of almost two years and the trial was likely going to take considerable amount of time.

13. The object of jail is to secure the appearance of the accused during the trial. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. delay in the completion of the trial.

14. The applicant is stated to be of clean antecedents and in the opinion of this Court, is not likely to commit a similar offence while on bail. In this regard, this Court is of the view that no purpose would be served by keeping the applicant in further incarceration.

15. Therefore, without commenting further on merits of the case, this Court considers it apposite to grant bail to the applicant.

16. The applicant is, directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two



sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court as and when directed;
- d. The applicant shall provide the address where he would be residing after his release and shall not change the address without informing the concerned IO/ SHO;
- e. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times.

17. In the event of there being any FIR/DD entry/complaint lodged against the applicant, it would be open to the respondent to seek redressal by filing an application seeking cancellation of bail.

18. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

19. The bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

JULY 10, 2025/“SK”

BAIL APPLN. 4633/2024

Page 5 of 5