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

\+ BAIL APPLN. 4678/2024

AARIF .....Petitioner

Through: Mr. Suraj Prakash Sharma, Advocate

versus

STATE (NCT OF DELHI) .....Respondent

Through: Mr. Aman Usman, APP with SI Hitesh Bhardwaj, PS Crime Branch, Prashant Vihar

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

O R D E R

% 02.04.2025

1. This is a first bail application filed on behalf of petitioner Aarif, under Section 483 of BNSS, 2023 in Case FIR No. 0204/2023, under Section 15/25/29 of NDPS Act, Police Station Crime Branch, Delhi.

2. As per prosecution version, co-accused Imran Ali @ Samir, Mohd. Shareef and Sumit Kumar were apprehended on the basis of a secret information. A sack, containing Poppy Straw, weighing 10.860 kgs was recovered from the possession of co-accused Imran Ali @ Samir while a sack containing 11.87 kgs of Poppy Straw was recovered from co-accused Mohd. Shareef.

3. At the instance of Imran Ali and Mohd. Shareef, five more sacks were recovered from House No. 21, Sarai Peepal Thala, which were found to contain 54.64 kgs of Poppy Straw.

4. In their disclosure statements, they disclosed that they used to procure Poppy Straw from Tapukada, Alwar, Rajasthan from petitioner Aarif.

5. On the instance of co-accused Imran Ali and Sumit, another co-accused named Amir Khan was apprehended and from him, two sacks containing 20.518 kgs of Poppy Straw were recovered.

6. Petitioner was apprehended in Gurugram, Haryana in Case FIR No. 248/23, under Section 15 (ii)(B)/29 NDPS Act, PS Sadar District. He was then formally arrested in the present case.

7. Learned counsel of petitioner contends that no recovery has been affected from the present petitioner. Charge sheet has already been filed and co-accused Mohd. Shareef and Sumit have since been enlarged on bail. It is further submitted that trial is still at an initial stage, inasmuch as, only 2 out of 32 witnesses have been examined so far, and therefore, there is no possibility of completion of trial in near future.

8. Bail application has been vehemently opposed by the learned Additional PP, arguing that petitioner is the kingpin of the drug syndicate, who used to supply Poppy Straw to co-accused persons. Learned Additional PP places strong reliance on the evidence of CDRs of co-accused persons. It is submitted that as per CDR, the location of the petitioner was Tapukada, Rajasthan on 17.08.2023 at the time of procurement of contraband. Co-accused Imran Ali and Amir Khan were in constant touch with the petitioner. It is further submitted that on analysis of the money trail, it has been found that the money was transferred to one Rafeek by co-accused Mohd. Shareef on the direction of the petitioner and in this regard, Rafeek, who runs a E-Mitra shop in the village of the petitioner, was examined and his statement under Section 161 Cr. PC was recorded.

9. It is further submitted that petitioner did not join the investigation and was evading his arrest and was declared a Proclaimed Offender. He is

involved in two similar cases, and therefore, not entitled for grant of bail.

10. Admittedly, there is no recovery of the contraband from the possession of the petitioner. Prosecution is mainly relying on the CDR connectivity. In the case of **Azad vs. State of GNCT of Delhi [2023 SCC OnLine Del 1769]**, it has been held that "CDR data can only be taken as supporting or corroborative piece of evidence and conviction cannot be made solely on the basis of CDR data". Thus, evidentiary value of CDRs can only be considered during the trial and not at the stage of consideration of bail application. In this regard, reliance may be placed on the decision of the Supreme Court in **State (By NCB) Bengaluru vs. Pallulabid Ahmad Arimutta [2022 12 SCC 633]**. The relevant paragraph of which reads as under:-

> "12. ….The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial."

11. The other piece of evidence on which the prosecution is relying against the petitioner is certain UPI transactions, as detailed in Para 26 of the Status Report. All such transactions were made by co-accused Mohd. Shareef to the accounts of the co-accused persons and alleged Rafeek. Admittedly, co-accused Mohd. Shareef, from whom the recovery has also been affected, has since been released on bail. The case of the present petitioner stands on a better footing. Petitioner is stated to be in custody in this case since 12.03.2024.

12. Hence, considering the fact that no recovery has been affected from the possession of the present petitioner and co-accused Mohd. Shareef has already been granted bail, it is directed that the present petitioner Aarif be released on regular bail subject to furnishing a personal bond in the sum of

Rs. 25,000/- with one surety of the like amount to the satisfaction of trial court/Duty Magistrate and subject to following further conditions:-

i) that petitioner shall appear regularly before the trial court during the pendency of the trial;

ii) that petitioner shall provide his mobile number to the Investigating Officer, which shall always be kept in a working condition and shall not be switched off during the pendency of the trial.

iii) that in case of change of residential address or contact details, the petitioner shall promptly inform the same to the concerned Investigating Officer as well as to the concerned Court.

iv) that petitioner shall not directly or indirectly try to contact the prosecution witnesses or tamper with the evidence.

13. The bail application is disposed of in the above terms.

14. It is made clear that this Court has not expressed any opinion on the merits of the case and the observations made are only for the disposal of the present bail application and nothing observed herein shall amount to an expression on the merits of the case and shall not have a bearing on the trial of the case.

RAVINDER DUDEJA, J.

APRIL 2, 2025

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