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

+ **BAIL APPLN. 4823/2024**

DHARMENDER KR. YADAV @ DOCTORPetitioner

Through: **Mr. Gaurav Tyagi, Mr. Deepanshu
Baisla and Mr. Jatin Nagar, Advs.**

versus

STATE GOVT. OF NCT OF DELHIRespondent

Through: **Mr. Manoj Pant, APP for the State.**

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

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17.02.2025

CRL.M.A. 39267/2024 (exemption) in BAIL APPLN. 4823/2024

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

BAIL APPLN. 4823/2024

3. The present bail application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') has been filed on behalf of the applicant, seeking grant of regular bail in case arising out of FIR bearing no. 116/2023, registered at Police Station Maurice Nagar, Delhi, for offences punishable under Sections 21/29 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (hereafter 'NDPS Act').
4. Briefly stated, the facts of the present case are that on 24.07.2023, a secret information was received through an informer that a person named



Safiulla, was involved in the supply of narcotic substance in collaboration with two other persons, and would come to supply Heroin to one of their associate, near the 'Overhead Tank' on Delhi University Road, Delhi. Based on this information, a raiding team was constituted, which reached the said location. The investigation was carried out by the Police and thereafter both the abovenamed accused persons were arrested. In their disclosure statements, they had disclosed that they had procured the Heroin from Anil and the present applicant Dharmender @ Doctor, both residents of Bihar and they had distributed Heroin in retain within the local area of Bihar. During the police custody remand, on 27.07.2023, acting on a secret information, a raid was conducted at Bihiyan Tiraha, District Bhojpur, Bihar, at the instance of the accused Safiulla and Ranjan Singh, and two individuals i.e. applicant Dharmendra Kumar Yadav @ Doctor and co-accused Anil Kumar Singh were arrested.

5. The learned counsel appearing for the applicant states that the mobile phone belonging to the present applicant has been used by the Police to manipulate record, and that after the arrest of the applicant, calls were made and received from the co-accused persons. The learned counsel further submits that no recovery has been affected from the present applicant and the name of the applicant has been surfaced only during the disclosure statements of other co-accused persons. It is also contended that the other co-accused Anil, has been granted bail by this Court *vide* order dated 20.11.2024. Therefore, it is prayed that the applicant be granted bail in the present case.

6. On the other hand, the learned APP for the State argues that the Call Details Record (CDR) and the call recording transcripts thereof have been



placed before this Court, and that the transcripts of the call recording will clearly show the nexus between the accused persons. He also states that the CDR proves that the accused persons were in constant touch with other accused persons. He further states that as many as 39 calls, 152 calls and 200 calls were made to Dharmender, Ranjan Singh and Anil Kumar Singh from 03.07.2023 till the time of incident from the mobile phone of co-accused Safiulla. Therefore, it is prayed that the present bail application be dismissed.

7. This Court has **heard** arguments addressed on behalf of both the parties and has perused the material available on record.

8. This Court's attention has been drawn to the fact that the co-accused persons namely Safiulla and Ranjan were apprehended with commercial quantity of contraband i.e. 320 grams and 280 grams of Heroin each, at the spot by the raiding team. Concededly, the alleged recovery made from them is commercial quantity. The name of the present applicant was revealed during the course of investigation as the person who had supplied narcotic substances to the co-accused persons. At instance of co-accused persons, the present applicant was arrested in this case.

9. During investigation, Call Detail Records of the accused persons were obtained and analysed, and it was revealed that all the accused persons had been in constant touch with each other. As per records, the applicant had made 39 calls to co-accused Safiulla and 298 calls to accused Anil Kumar since. Some incriminating voice calls were also found in the mobile phone of Safiulla in which applicant was talking about recovered contraband and both of them were also discussing about the further consignments of Heroin. Thus, the present case is not only of CDR connectivity between the



applicant and co-accused from whom commercial quantity of Heroin was recovered, but a case where incriminating call recordings of the present applicant and co-accused Safiulla have been recovered. The transcripts of the said recordings have also been perused by this Court.

10. Considering the aforesaid, this Court is of the view that there is sufficient material at this stage to prima facie reflect a criminal conspiracy between the present applicant and co-accused Safiulla from whom commercial quantity of Heroin was recovered. Therefore, bar under Section 37 of the NDPS Act would be attracted against the applicant herein.

11. The Hon'ble Supreme Court in *Narcotics Control Bureau v. Mohit Aggarwal: 2022 SCC Online SC 891*, while explaining the meaning of 'reasonable grounds' under Section 37(1)(b) of NDPS Act, has held as under:

“14. To sum up, the expression "reasonable grounds" used in clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the accused person is not guilty of the alleged offence. For arriving at any such conclusion, such facts and circumstances must exist in a case that can persuade the Court to believe that the accused person would not have committed such an offence. Dove-tailed with the aforesaid satisfaction is an additional consideration that the accused person is unlikely to commit any offence while on bail.

12. In the case of *Union of India v. Prateek Shukla: (2021) 5 SCC 430* as well as *State v. Lokesh Chadha: (2021) 5 SCC 724*, it was held by the Hon'ble Supreme Court that the provisions of Section 37 of NDPS Act have to be applied strictly at the time of deciding bail application of an accused.

13. With regard to Section 37 of NDPS Act, this Court is of the view that the respondent has been successful in showing that there are reasonable grounds to believe that the applicant herein is guilty of the alleged offence.

14. The learned counsel for the applicant has relied upon the order dated



20.11.2024 as per which co-accused Anil was granted bail by the Co-ordinate Bench; however the same can be of no help to the present applicant, since there were no call recordings and transcripts thereof *qua* co-accused Anil.

15. Therefore, at this stage, no ground for grant of regular bail is made out.

16. The bail application is accordingly dismissed.

17. Nothing expressed hereinabove shall tantamount to an expression of the opinion on merits of the case.

18. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

FEBRUARY 17, 2025/A

Click here to check corrigendum, if any