

Bail Matters 3599/2024
STATE Vs. Mohd. Hafiz
FIR No. 610 /2023
PS- (Sarita Vihar)
u/s 20/29/61/85 of NDPS Act

Dr. TARUN SAHRAWAT
ASJ-04/Special Judge (NDPS)
South-East District, Saket Courts,
New Delhi

07.12.2024

File taken up on an application u/s 483 BNSS filed on behalf of applicant/accused Mohd. Hafiz for grant of regular bail.

Present : Sh. S.K. Kain, Ld. Addl. PP for the State.
Sh. Aditya Aggarwal, Ld. Counsel for the
applicant/accused.

1. The present application is filed u/s 483 of BNSS, 2023 seeking regular bail in FIR No. 610/2023, PS Sarita Vihar for offence under Sections 21/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

2. Ld. Counsel for the applicant/accused submitted that the accused has been languishing in JC since 22.11.2024. Ld. Counsel further submitted that accused has been falsely implicated in the present case as he has nothing to do with the alleged offence. Ld. Counsel further submitted that the accused has no previous involvement in any criminal offence. Ld. Counsel further contended that nothing incriminating had been recovered at the instance of applicant/accused and, if shown, the recovery was falsely planted upon him. He further stated that accused was arrested merely upon the disclosure statement of co-accused Yamin Malik. Ld. Counsel further contended that co-accused Rinku has already been enlarged on bail by the Hon'ble High Court of Delhi vide order dated 09.04.2024 and co-accused



Yamin Malik was granted by this court on 25.04.2024. Ld. Counsel for accused further prays for bail on parity grounds.

3. *Per contra* Ld. Addl. PP for the State opposed the bail application. Ld. Addl. PP further submitted that the recovered black colour scooty belongs to accused and his brother inlaw namely Jaane Alam and that they are the suppliers/source of the Ganja. Ld. Addl. APP further submitted that applicant/accused is previously involved in similar kind of offences and that he had previously applied for anticipatory bail before the Hon'ble High Court of Delhi but got dismissed. He further stated that supplementary chargesheet is yet to be filed before the court. Ld. Addl. PP further submitted that if bail is granted to the accused, there is strong possibility that he may abscond and evade the trial and flee from justice. Ld. Addl. PP thus contended that accused ought not to be granted bail.

4. I have heard the learned counsel for the parties and have also perused the records.

5. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment, the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, period of incarceration is also a relevant factor that is to be considered.



6. On perusal of the record reveals that accused has been languishing in JC since 22.11.2024. During the course of arguments, it was brought to the fore that co-accused Rinkoo Kumar had been granted bail by the Hon'ble High Court of Delhi vide order dated 09.04.2024 and thereafter, accused Yamin Malik was also granted bail by this court on 25.04.2024. Further, the investigation in the present matter has been completed and chargesheet has already been filed.

7. Keeping in view the aforesaid facts and circumstances and that intermediate quantity of 'ganja' was seized, but no recovery has been affected from the present applicant/accused and that he has been arrested only on the basis of disclosure statement and that the trial of the case will take some time to conclude as well as the fact that co-accused Rinkoo Kumar and Yamin Malik have already been enlarged on bail, I deem it fit to grant regular bail to the accused Mohd. Hafiz, on his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like amount, subject to the further following conditions:

i). The applicant/accused shall not leave the NCT of Delhi without prior permission of the concerned court.;

ii). At the time of furnishing bail bond, the applicant shall provide the mobile number, which he undertakes to keep operational at all times during the pendency of the trial.

iii). In case of change of residential address or contact details, the applicant shall promptly inform the same to the concerned IO as well as to the concerned court;

iv). The applicant shall not directly/indirectly try to get in



touch with the complainant on any other prosecution witnesses or tamper with the evidence;

v). The applicant shall regularly appear before the concerned court during the pendency of the trial;

vi) The applicant/accused shall commit no offence whatsoever during the period that he is on bail and in the event of his being involved in any other case and lodging of FIR or DD entry against him, it would be open to the State to seek redressal in accordance with law.

8. Needless to say, the above-mentioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the regular bail application stands disposed of.

9. In compliance of Sanjay Singh Vs. State (Govt of N.C.T of Delhi) Writ Petition Criminal 974/2022, copy of this order be sent to concerned Jail Superintendent to convey the order to inmate.

Order be given dasti.

(Dr. TARUN SAHRAWAT)
ASJ-04 + Spl. Judge (NDPS),
South East District, Saket Court,
New Delhi /07.12.2024

Add. Sessions Judge-04 & Spl. Judge (NDPS) (South-East)
Saket Court Complex, New Delhi

