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

+ **BAIL APPLN. 2827/2023**

PARVESH KUMAR

..... Petitioner

Through: Mr. Aditya Aggarwal and Mr. Naveen
Panwar, Advocates.

versus

STATE

..... Respondent

Through: Mr. Sanjeev Bhandari, ASC for the
State with SI Mahesh Chand, PS
Badarpur.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

19.12.2023

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1. The present petition has been filed under Section 439 Cr.P.C. by the petitioner read with Section 36 A (3) of the NDPS Act seeking release on regular bail in FIR No. 188/2023 under Sections 20/61/85 NDPS Act registered at Police Station Badarpur.

2. In brief the facts of the case as per the prosecution are that on the basis of the secret information, a raid was conducted at Jaithpur Mode and consequently, one accused person, namely, Pravesh Kumar (petitioner herein) was apprehended at the instance of the secret informer. Thereafter upon search, one brown colour bag containing green, grass type substances was recovered from his possession which was found to be Ganja weighing 5.306 kg without bag. As a result, the present FIR was registered against the petitioner and the investigation



was taken up.

3. It is submitted by learned counsel for the petitioner that petitioner is in judicial custody since 08.06.2023. It is further submitted that the 5.306 kg. of *Ganja*, which was allegedly recovered from the petitioner, is only an intermediate quantity and not a commercial quantity, therefore, the rigors of Section 37 NDPS Act are not applicable herein. Concluding his arguments, learned counsel for the petitioner submitted that chargesheet has already been filed and, therefore, petitioner is no more required for the investigation purposes.

4. On the other hand, learned ASC for the State has argued on the lines of the Status report and submitted that the allegations against the petitioner are serious in nature as the recovery of the contraband is not a small quantity. It is further submitted that petitioner is involved in drug peddling for long time.

5. In the instant case, 5.306 kg. of *Ganja*, which was recovered from the petitioner, falls within the intermediate quantity, therefore, the rigors of Section 37 NDPS Act are not applicable in the present case. Moreover, the trial would take a long time to conclude and no fruitful purpose would be served by keeping him in judicial custody. On my query with regard to the fact that whether petitioner has clean past antecedents or not, it was informed that petitioner has clean past antecedents.

6. Keeping in view the entire circumstances of the case and the facts that petitioner is in judicial custody since 08.06.2023; chargesheet has already been filed and that he is no more required for investigation purposes, the present petition is allowed. Accordingly, petitioner is



admitted to bail on the following conditions:

- (i) The Petitioner shall furnish personal bond in the sum of Rs.25,000/- with one surety in the like amount to the satisfaction of the concerned trial court;
 - (ii) The petitioner shall provide his mobile phone number to the Investigating Officer (IO) concerned – at the time of release, which shall be kept in working condition at all times. The petitioner shall not switch-off, or change the same without prior intimation to the IO concerned, during the period of bail;
 - (iii) The petitioner shall not leave the country without the prior permission of the concerned trial court;
 - (iv) The petitioner shall not indulge in any criminal activity during the bail period.
7. The application stands disposed of in the aforesaid terms.
 8. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of the case.

RAJNISH BHATNAGAR, J

DECEMBER 19, 2023

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