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

+ BAIL APPLN. 1114/2024 & CRL.M.A. 33851/2024

SHUBHAM CHAHALPetitioner

Through: Mr. Aditya Aggarwal, Mr. Naveen
Panwar and Ms. Kajal Garg,
Advocates.

versus

NARCOTICS CONTROL BUREAURespondent

Through: Mr. Shashwat Bansal, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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29.11.2024

By way of the present petition filed under section 439 of the Code of Criminal Procedure 1973, the petitioner seeks regular bail in Case No. VIII/01/DZU/2022 registered under sections 8(c)/20/22(c)/29/35 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS') at P.S.: NCB, DZU, R.K. Puram, Delhi.

2. Notice on this petition was issued on 01.04.2024; consequent whereupon Status Report dated 13.05.2024 has been filed on behalf of the NCB.
3. Nominal Roll dated 23.07.2024 has also been received from the concerned Jail Superintendent.
4. The court has heard Mr. Aditya Aggarwal, learned counsel appearing for the petitioner; as well as Mr. Shashwat Bansal, learned counsel appearing for the NCB at length.



5. Mr. Aggarwal's principal contention is that the *main* evidence being cited against the petitioner is that he was the 'consignor' of a parcel, which according to the NCB, was intercepted and seized by them in Delhi, and which was found to contain 43 grams of MDMA and 2.75 grams of Methamphetamine.
6. Mr. Aggarwal submits, that very recovery of the parcel in question has been doubted by this court in its order dated 18.10.2024 made in BAIL APPLN. No. 725/2024, whereby this court was pleased to grant anticipatory bail to co-accused/Deepjyoti Mitra in the present case.
7. Mr. Aggarwal submits, that a perusal of the said order would show that it is the NCB's case that information was received by the NCB on 10.01.2022 that a parcel bearing AWB No. Z70285037 had been consigned by the petitioner; that the parcel was lying at DTDC Exp. Ltd. Super Hub, Samalkha, New Delhi; and was suspected to contain 'ecstasy' pills. It is further the NCB's case, that pursuant to this information, the parcel was intercepted *at the Samalkha Office of the DTDC on 10.01.2022 at about 12:30 p.m.*; and it was found to contain 43 grams of MDMA and 2.75 grams Methamphetamine; and the parcel was accordingly seized.
8. Counsel submits however, that the Tracking Report of the said parcel – bearing AWB No. Z70285037 – which is one of the documents filed by the NCB alongwith their complaint, would show that on the date and time at which the NCB says they intercepted and seized that parcel *in Delhi*, the parcel (consignment) was 'out for delivery' *in Kolkata*.



9. Furthermore, Mr. Aggarwal points-out that the tracking report also shows that the consignment, which had been booked at the DTDC facility in Greater Noida *on 06.01.2022*, had passed through various channels of DTDC, and it would appear that *on 08.01.2022* the consignment *was already at the Delhi Airport* as an ‘out-going load’ to be loaded onto the Kolkata flight *via AVIAPRO Logistics Pvt. Ltd;* and *on 09.01.2022* the consignment had already been received at the Kolkata airport. Counsel accordingly argues, that the NCB’s story of the parcel having been intercepted and seized at the DTDC’s Samalkha Office in Delhi *on 10.01.2022* is falsified; and all proceedings arising therefrom must accordingly fail.
10. In line with the stand taken by the NCB in the case of Deepjyoti Mitra as referred to above, and in an effort to explain the discrepancy between the tracking report of the parcel and the NCB’s stand, *viz.* that they had intercepted and seized the parcel at the Samalkha Office of the DTDC in New Delhi, Mr. Bansal states, that so as not to alert the accused persons of the interception of the consignment, the NCB had instructed DTDC not to change the tracking record of the consignment, which is why the tracking report reflects that the consignment had moved from the Samalkha Office of the DTDC *to the Delhi Airport, then to the Kolkata Airport, and thereafter was out for delivery* to the petitioner’s address in Kolkata.
11. Mr. Bansal further submits, that the NCB have also collected the relevant CDRs which show that several calls were exchanged between the petitioner and co-accused/Rudra Singh on the date on which the consignment was booked through DTDC as well as on several dates



preceding that, which CDRs have been placed on record. Mr. Bansal argues that in his statement recorded under section 67 of the NDPS Act, the petitioner/Shubham Chahal has himself admitted that he had been asked to courier the parcel by co-accused/Rudra Singh.

12. Upon a conspectus of the facts and circumstances of the case, in the opinion of this court, NCB's explanation of the *evident discrepancy* between their case that they had intercepted and seized the parcel (of which the petitioner is alleged to have been the consignor) at the DTDC Samalka Office in New Delhi on 10.01.2022 *and* the tracking report which shows that on the said date the parcel was already out-for-delivery in Kolkata, is something that the NCB would have to prove in the course of trial. At the present stage, based on a plain reading of the tracking report, the NCB's contention that they had intercepted and seized the parcel at the DTDC Samalkha Office in New Delhi on 10.01.2022 seems to be faltering.
13. What is seen from the material on record is that the *main* incriminating circumstance cited against the petitioner is that his name appears as the 'consignor' of the parcel, which is alleged to have contained contraband. But the very interception and seizure of the parcel on the date claimed by the NCB is under shadow by reason of the discrepant tracking report. Notably, the tracking report also shows that the consignment had *left the DTDC Samalkha Office on 08.01.2022*; and was at the Delhi Airport *on 08.01.2022*; and then at the Kolkata Airport and *09.01.2022*; which casts a doubt on the NCB's claim that they had intercepted the parcel *at the DTDC Samalkha office in Delhi on 10.01.2022*.



14. Insofar as the other circumstance is concerned, *viz.* that the petitioner had been in telephonic touch with Rudra Singh, who (latter) is the person who is stated to have instructed the petitioner to book the parcel, in the opinion of this court, that would also require to be proved in the course of trial, since a very significant circumstance, *viz.* the recovery and seizure of the parcel from the place and at the time as alleged by the NCB, is now seriously disputed.
15. Nominal Roll dated 23.07.2024 received from the Jail Superintendent shows that the petitioner has already spent about 02 years and 06 months in judicial custody as an undertrial as of that date; that he has no other criminal involvement; and that his overall jail conduct has been 'satisfactory'.
16. Furthermore, the court is informed that since only charges have been framed in the matter as of now, none of the 21 prosecution witnesses cited in the chargesheet have been examined so far; and it is therefore unlikely that the trial in the matter will be completed anytime soon.
17. Upon an overall conspectus of the facts and circumstances of the case, this court is persuaded to grant to the petitioner – **Shubham Chahal s/o Dayachand Chahal** – *regular bail* pending trial, subject to the following conditions :
 - 17.1. The petitioner shall furnish a personal bond in the sum of Rs.50,000/- (Rs. Fifty Thousand Only) with 02 sureties in the like amount from family members to the satisfaction of the learned Trial Court;
 - 17.2. The petitioner shall furnish to the Investigating Officer a cellphone number on which the petitioner may be contacted at



- any time and shall ensure that the number is kept active and switched-on at all times;
- 17.3. In case of any change in his residential address/contact details, the petitioner shall promptly inform the Investigating Officer in writing;
- 17.4. If the petitioner has a passport, he shall surrender the same to the learned Trial Court and shall not travel out of the country without prior permission of the learned Trial Court; and
- 17.5. The petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the prosecution witnesses or other persons acquainted with the facts of case. The petitioner shall not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending trial.
18. Since the petitioner is facing trial and is therefore appearing before the learned Trial Court from time-to-time, it is not considered necessary to impose a reporting requirement as a condition of regular bail.
19. Needless to add, that nothing in this order shall be construed as an expression of opinion on the merits of the matter.
20. The petition stands disposed-of in the above terms.
21. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

NOVEMBER 29, 2024

V.Rawat