

Bail Application
FIR No.37/2021
PS:Crime Branch, Delhi
State Vs. Dinesh @ Tinda
U/s 21 NDPS Act

05.09.2024

ORDER :

1. This order of mine shall dispose of the regular bail application U/s 439 CrPC filed on behalf of accused/ applicant **Dinesh @ Tinda.**

2. Arguments have already been heard on the bail application of the accused/ applicant Dinesh @ Tinda Under Section 439 CrPC seeking regular bail. I have also perused the record.

3. Ld. Counsel for applicant/ accused submitted that the applicant/ accused has been falsely implicated in the present case and he has nothing to do with the commission of the alleged offences and he is an innocent person. It has been further submitted that on 06.03.2021, the applicant/ accused was arrested by the police officials of PS Crime Branch and since then he is in judicial custody. It has been further submitted that prosecution has cited 15 witnesses and out of them, examination-in-chief of 04 witnesses were completed and discharged and rest of the witnesses are police officials, hence, there is no question of tempering with prosecution evidence. It has been further submitted that nothing has been recovered from the possession of or at the instance of the applicant/ accused and alleged recovery of 300 grams of Heroin has been planted upon him. It has been further submitted that the applicant/ accused is squarely covered by the judgment passed by the Hon'ble High Court of Delhi in

Bail Application No. 1725/2022 titled as Mohd. Jabir Vs. State of NCT of Delhi. It has been further submitted that copy of the notice U/s 50 of NDPS Act allegedly served upon the applicant/accused, however, contents of the same clearly shows that Mandatory provision of Section 50 of NDPS Act has not been followed in the present case. It has been further submitted that the applicant/accused is the sole bread earner of his family. It has been prayed that the applicant/accused may be granted regular bail. Learned counsel for the applicant/accused has relied upon the following case law/ judgment :-

(1) Mohd. Jabir Vs. State of NCT of Delhi, Bail Appl. No. 1725/2022, decided on 28.03.2023 of the Hon'ble High Court of Delhi.

4. Learned Addl. PP for the State has opposed the bail application and submitted that 300 grams of heroin was recovered from the possession of the applicant/accused, which is a commercial quantity and therefore, bar of Section 37 of NDPS Act attracts in the present case.

5. At the outset, it is firstly noted that on two prior occasions, bail applications of the applicant/accused have already been dismissed on 20.11.2021 and 30.04.2022 by Ld. Predecessor of this Court, while nothing about these previous bail applications have been mentioned in the present bail application. There was a recovery of 300 grams heroin from the possession of the applicant/accused. Applicant/accused is having criminal antecedents. It has been observed in the prior two bail dismissal orders dated 20.11.2021 and 30.04.2022 that rigors of Section 37 of NDPS Act attracts to the present case and there is no material

before the Court to arrive at satisfaction that applicant/ accused has not committed the offence and is not likely to commit similar offence, if released on bail. As on date also, the bar of Section 37 NDPS Act subsists. Thus, no case for grant of bail to the applicant/ accused Dinesh @ Tinda is made out at this stage. The precedent relied upon by the learned counsel for applicant/ accused is thus of no help to him. Accordingly, the bail application of the applicant/ accused **Dinesh @ Tinda** is **dismissed**.

6. The observations made on the merits of the case are purely for the purposes of deciding the present bail application and shall not be construed as expression upon the merits of the case.

7. Copy of the order be given dasti to the IO, Ld. Counsel for applicant/ accused and be communicated to the applicant/ accused in Jail through Jail Superintendent concerned.

(PRANJAL ANEJA)
Special Judge (NDPS)-02
(Central), Tis Hazari Courts
Delhi/05.09.2024