

**SC No. 53/22**  
**IA No. 10/22**  
**STATE Vs. FURKAN AHMAD**  
**FIR No. 760/2021**  
**PS New UsmanPur**  
**U/s: 20 of NDPS Act**

**16.12.2022**

Present: Sh.Abdul Qadir, Ld. Counsel for the applicant/accused Furkan Ahmad.  
Sh. Sukhbeer Singh, Ld. Addl. PP for the State.  
Deputed IO SI Vishal Malik.

The matter is fixed for hearing arguments on the application for grant of bail filed by this applicant/accused Furkan Ahmad.

Deputed IO has filed reply to the bail application. Copy of the reply is supplied to the ld. Counsel for the applicant/accused.

Arguments on the application heard.

Matter stands passed over till 4:00 pm for order on the application.

At this stage, deputed IO has filed Panchnama(running into 7 pages) regarding releasing of the vehicle on Superdari. Same is taken on record.

**(PAWAN KUMAR MATTO)**  
**Addl. Sessions Judge (Special Judge NDPS)**  
**North East/KKD Courts/Delhi/16.12.2022**

At 4:00 PM

Present: None for the applicant/accused  
Sh. Sukhbeer Singh, Ld. Addl. PP for the State.

The matter was passed over for order on the application for grant of bail filed by the applicant/accused Furkan Ahmad.

Vide my separate detailed order of even date, the application for grant of bail filed by the applicant/accused Furkan Ahmad has been dismissed.

Dasti copy of order be provided to the parties.

**(PAWAN KUMAR MATTO)**  
**Addl. Sessions Judge (Special Judge NDPS)**  
**North East/KKD Courts/Delhi/16.12.2022**

**SC No. 53/22**  
**IA No. 10/22**  
**STATE Vs. FURKAN AHMAD**  
**FIR No. 760/2021**  
**PS New UsmanPur**  
**U/s: 20 of NDPS Act**

**16.12.2022**

**ORDER ON APPLICATION FOR GRANT OF BAIL  
FILED BY THE APPLICANT/ACCUSED FURKAN  
AHMAD.**

1. This order of mine will dispose of an application for grant of bail filed by this applicant/accused Furkan Ahmad.
2. I have heard the counsel for this applicant/accused and Ld. Additional Public Prosecutor for State.
3. The counsel for applicant/accused has submitted that this applicant/accused has been falsely roped in this case and he was not present at the spot at the time of alleged recovery of contraband. He has further submitted that vehicle wherein, the contraband is alleged to have been recovered does not belong to this applicant/accused. He has further submitted that this applicant/accused never contacted with the co-accused telephonically. He has further submitted that in the case in hand, investigation is not fair and prayed for grant of bail.
4. On the other hand, Ld. Additional Public Prosecutor for the State has vehemently opposed the present application for

bail and submitted that on the date of occurrence, this applicant/accused was sitting on the rear seat of the vehicle, from the dickey, whereof two plastic sacks were found and in one sack 14:34 Kg. Ganja was found and in another plastic sack 16:744 Kg. Ganja was found and thus the quantity of the contraband recovered from the Dickey, is of commercial in nature, thus, embargo contained U/sec. 37 of the NDPS Act is applicable to the case in hand. The Ld. Additional Public Prosecutor for State has further submitted that application for bail of this accused has already been dismissed by the Predecessor of this court on dated 31.03.2022 and there is no change in the circumstances and prayed for dismissal of this application for grant of bail.

5. I have given thoughtful consideration to the submissions made by counsel for this applicant/accused and Ld. Additional Public Prosecutor for State and perused the record.

6. The perusal of the record reveals that in the case in hand, two plastic sacks are alleged to have been recovered from the Dickey of the vehicle bearing registration No. UP 80CC 7027 and this accused was sitting on the rear seat, whereas, the other two accused were sitting on the front seats. The perusal of the record further reveals that charge U/sec. 20(C) of the NDPS Act has been framed against this applicant/accused as the total weight of the ganja found in two plastic sacks is 31.084 Kg and since the quantity of the contraband is of commercial in nature,so, the embargo of Sec. 37 of NDPS Act is applicable to the case in

hand.

7. Since the Hon'ble Supreme Court of India in "*Union of India v. Ram Samujh and Anr. Appeal (Crl.)866 of 1999*" while dealing with bail matter relating to the commercial quantity of contraband was pleased to observe as under:-

*To check the menace of dangerous drugs flooding the market, the Parliament has provided that the person accused of offences under the NDPS Act should not be released on bail during trial unless mandatory conditions provided in Section 37, namely,*

*(i)there are reasonable grounds for believing that accused is not guilty of such offence; and*

*(2)that he is not likely to commit while on.*

*are satisfied. The High Court has not given any justifiable reason for not abiding by the aforesaid mandate while ordering the release of the respondent accused on bail. Instead of attempting to take a holistic view of the harmful socio-economic consequences and health hazards which would accompany trafficking illegally in the dangerous drugs, the Court should implement the law in the spirit with which the Parliament, after due deliberation, has amended.*

*In the result, appeal is allowed. The impugned Order dated 20 August, 1998 passed by the High Court of Judicature at Allahabad, Lucknow Bench, releasing respondent No. 1, Ram Samujh is quashed and set aside. Respondent No. 1 is directed to surrender.*

8. Since the commercial quantity of contraband is alleged to have been recovered from the car, in which this

applicant/accused was traveling,so, the embargo contained U/sec. 37 of the NDPS Act is applicable to the applicant/accused. So taking into consideration the nature of accusation, gravity of offence, the provision of Sec. 37 of NDPS Act and the law laid down by their Lordship of Supreme Court in case of *Union of India v. Ram Samujh and Anr.(supra)*, this applicant/accused **Furkan Ahmad** does not deserve the concession of bail, so, this application for grant of bail filed by the applicant/accused **Furkan Ahmad** is hereby dismissed.

9. Copy of this order be given dasti.

**(PAWAN KUMAR MATTO)**  
**Addl. Sessions Judge (Special Judge NDPS)**  
**North East/KKD Courts/Delhi/16.12.2022**