

IA No. 2/2022
Shakeel Ahmed Vs. State

In re:-
SC No. 53/2022
FIR No. 760/2021
PS: New Usman Pur
U/s: 20 NDPS Act

19.04.2022

Present: Sh. Naveen Singhla, Ld. Counsel for applicant.
Sh. R. K. Satyarthi, Ld. Addl. PP for State along
with Inspector Ashwani Kumar and IO SI Ravi
Poonia.

Reply to the bail application is filed. Copy is
supplied to Ld. Counsel for applicant.

Submissions on the application are heard.

The applicant is in the custody in the present matter
on the allegations that he was apprehended by the police on
17.10.2021 as was present in a car bearing registration no. UP 80
CC 7027 and from search of the car, ganja like material weighing
14.34 kg and 16.744 kg was recovered in two plastic bags
respectively.

The applicant is praying for release on bail with the
contentions that he has been falsely implicated and that he was
only the driver and he was called by his relative co-accused
Furkan Ahmad on daily wage for one day as driver. It is
submitted that the applicant is neither the owner of the car nor is
having any concern with it and he had also no knowledge of the
alleged drug substance. It is submitted that in DD entry 26 A, it
is shown that intimation to the IO was received at 3.47.13 am on

17.10.2021 but later on, it was rectified to 2.55 am vide GD No. 29A at about 4.49.45 am on 17.10.2022. (*sic*) It is submitted that it was alleged by the police officials that in a dicky of car, two white plastic kattas were found in which there were 8-7 packets of yellow colour and that when on 25.10.2021, Ld. MM directed to open the seal of plastic bags, the packets were found to be of brown colour. It is submitted that there is no public witness as well as eye witness in the case and applicant is in JC since 17.10.2021 and that chargesheet has been filed and that accused is no more required for any interrogation by the police and there is no fruitful purpose to keep the applicant behind the bars.

On the other hand, the application is opposed with the submissions that the quantity of the ganja recovered from the car is commercial quantity. It is submitted that the system installed in the police station on 17.10.2021 upon which the intimation of apprehension was entered was working slow so the time of intimation was given as 3.47.13 in place of actual time when the data was entered in the system at 2.55 am. It is submitted that the said fact was rectified vide GD No. 29 A of the same day. It is submitted that the recovered bags were produced before the Ld. MM for drawing the samples u/s 52 A NDPS Act and the process was photographed. It is submitted by the IO that he is considering the colour of the packets as yellow whereas in the opinion of Ld. MM, it was brown. It is submitted that the photographs along with proceedings has been filed with the case file and copy of the photographs may be considered by the Court as well as defence counsel.

Copy of the photographs is provided to the Ld. Defence Counsel. The different in the time of apprehension as

recorded in GD No. 26 A rectified by GD No. 29A is a matter of trial and the colour of the packets in the photographs is appearing yellow. The Ld. MM has found the seals on the bag intact.

Considering the facts and circumstances of the case, material collected during the investigation, at this stage, I found that nothing is placed before the Court which gave an occasion it to disbelieve the case of the prosecution. Thus, in the facts, considering the provision of Sec. 37 of NDPS Act, I am of the opinion that no case is made out to admit the applicant on bail. As such, the bail application of applicant is dismissed.

Copy of the order be provided to the parties and be also sent to the jail authorities for information.

(SUNIL CHAUDHARY)
Special Judge (NDPS)/ASJ
North East/ Delhi 19.04.2022