

IA No. 14/2023
SC No. 53/2022
State Vs. Shakil Ahmad
FIR No. 760/2021
PS: New Usmanpur
U/s: 20/29/61/85 of NDPS Act

17.05.2023

Present: Sh. S. K. Santoshi, Ld. Counsel for the applicant
/accused Shakil Ahmad.
Sh. Sukhbeer Singh, Ld. Addl. PP for the State.
SI Dev Kumar, the deputed IO.

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

Today, on calling the case, Ld. Counsel for the applicant/accused has appeared. IO has also appeared and filed reply to the said application. Copy thereof has been supplied to the ld. Counsel for the applicant/accused.

Arguments on the said application heard.

Accordingly, matter stands passed over for 4:00 PM, for order on the application for grant of bail.

(PAWAN KUMAR MATTO)
Special Judge (NDPS)Addl. Sessions Judge/
North East/KKD Courts/Delhi/17.05.2023

At 4:15 PM.
Present: None for the applicant/accused Shakil Ahmad.
Sh. Sukhbeer Singh, Ld. Addl. PP for the State.

The matter was passed over for 4:00 PM for order on the application for grant of bail filed by this applicant/accused Shakil Ahmad.

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

Dasti copies of the detailed order be provided to the parties.

(PAWAN KUMAR MATTO)
Special Judge (NDPS)/Addl. Sessions Judge/
North East/KKD Courts/Delhi/17.05.2023

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**ORDER ON APPLICATION FOR GRANT OF BAIL OF
APPLICANT/ACCUSED SHAKIL AHMAD**

1. This order of mine disposed of an application for bail filed by applicant/accused Shakil Ahmad.
2. I have heard the Ld. Counsels for the parties.
3. Sh. S. K. Santoshi, Ld. Counsel for applicant/accused submitted that this applicant/accused has been falsely implicated in the present case and submitted that earlier, this applicant/accused was granted interim bail by the Ld. Predecessor of this court and he had surrendered timely and there is no other case pending against this applicant/accused. He has also submitted that three minor children and wife of this applicant/accused is living in rented accommodation and she is passing very hard time. So, this applicant/accused may be granted bail.
4. On the other hand, Sh. Sukhbeer Singh, Ld. Addl. PP for the State has vehemently opposed this application and submitted that 31.084 kilogram Ganja was recovered from the dickey of the vehicle, which was being driven by this accused at the time of recovery of the Ganja. He has also submitted that since, the commercial quantity of the Ganja has been recovered

from the vehicle, while this accused was transporting the contraband in the vehicle. He has submitted that charge u/s. 20 (c) of the NDPS Act has been framed against this accused. He has further submitted that since, the quantity of the Ganja recovered from this accused is commercial in nature, so, embargo contained U/sec. 37 of the NDPS Act is applicable to the case in hand, so, this accused does not deserve the concession of bail and prayed for dismissal of his application under consideration.

5. I have given thoughtful consideration to the submissions made by the Ld. Counsels for the parties and perused the record.

6. The perusal of the record reveals that since, in the case in hand, charge u/s. 20 (c) of the NDPS Act has been framed against this accused, as, 31.084 kilogram Ganja is alleged to have been recovered from the vehicle bearing registration no. UP-80 CC-7027, which was being driven by this accused at the time of alleged recovery of the Ganja.

7. Since the Hon'ble Supreme Court of India in "***Union of India v. Ram Samujh and Anr. Appeal (Crl.)866 of1999***" 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,

(1) 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 socioeconomic 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 vehicle bearing registration No. UP-80 CC-7027, which is allegedly being driven by this applicant/accused, so, the embargo contained U/sec. 37 of the NDPS Act is applicable to the case in hand. 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 Shakil Ahmad does not deserve the concession of bail.

9. In the above terms, **the application for grant of bail filed by this applicant/accused Shakil Ahmad is dismissed.** Dasti copies of this order be supplied to the parties. **The attested copy of this order be also sent to the Superintendent of Central Jail, Tihar for supplying the same to this accused.**

(PAWAN KUMAR MATTO)
**Special Judge (NDPS)/Addl. Sessions Judge/
North East/KKD Courts/Delhi/17.05.2023**