

IA No. 18/2023
SC No. 53/2022
State Vs. Shakil Ahmad
FIR No. 760/2021
PS: New Usmanpur
U/s: 20/26/61/85 of NDPS Act

04.12.2023

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

1. This order of mine disposed of an application for grant of interim bail for a period of one month filed by applicant/accused Shakil Ahmad. IO was called upon for today, but, he did not appear and the Ld. Counsel for the applicant/accused has submitted that he may be heard on this application even in the absence of the IO and this application may be disposed off.

2. I have heard the ld. Counsel for the applicant/accused and ld. Addl. PP for the State

3. Sh. S. K. Santoshi, the ld. Counsel for this applicant/accused has submitted that the youngest son of this applicant/accused namely Johan is completing two years on 24.12.2023 and his circumcision could not be performed, because this applicant/accused is confined in the jail and now the this auspicious religious ceremony is scheduled for 24.12.2023, 25.12.2023 followed by Dinner on dated 28.12.2023. He has also submitted that this ceremony of circumcision is religious one, but, the boy has to undergo surgery, which requires at least two weeks to fully recover, after the surgery and the presence of this applicant/accused is necessary and submitted that earlier, the Ld.

Predecessor of this court was pleased to grant interim bail to this applicant/accused, vide 16.12.2021 and he had also extended the interim bail to this applicant/accused. He has also submitted that this earlier, applicant/accused was also granted interim bail by the Hon'ble High Court of Delhi and he had timely surrendered, so, this applicant/accused may be granted interim bail, for a period of one month.

4. On the other hand, Sh. Masood Ahmad, Ld. Addl. PP for the State has vehemently opposed this application and submitted that since, 31 killos 84 grams Ganja has been recovered from the car, wherein, this applicant/accused alongwith other co-accused was travelling and the quantity of Ganja, recovered from the possession of accused persons, is of commercial in nature and the document i.e. the invitation card annexed with this application, could not be verified. As, IO did not appear to file the report, regarding the verification and the Ld. Counsel for the applicant/accused has pressed this application in the absence of the report of the IO. He has also submitted that since, commercial quantity of Ganja is recovered from the possession of the accused persons, therefore, the provisions of Sec. 37 of NDPS Act are also applicable to the case in hand and prayed for dismissal of this application.

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 31 killos 84 grams Ganja is alleged to have been recovered from the car, wherein, this applicant/accused and other co-accused were

travelling. The invitation card annexed with this application could not be verified, as, the IO did not appear and this application has been pressed by the Ld. Counsel for the applicatn/accused in the absence of any report thereof.

7. Since, the commercial quantity of the contraband (Ganja) is alleged to have been recovered from the vehicle, wherein, this applicant/accused was travelling and charge u/s. 20(C) of NDPS Act has been framed against this applicant/accused, so, the provisions of Sec. 37 of the NDPS Act and the judgment passed by the Hon'ble High Court of Delhi in case, Athar Pavez Vs. State, Crl. Ref. 1/2015 are applicable to the case in hand.

8. So taking into consideration the fact that commercial quantity of the contraband is alleged to have been recovered from this applicant/accused, so, keeping in mind, the nature of accusation, gravity of offence alleged to have been committed by this applicant/accused, provisions of Sec. 37 of NDPS Act and the law laid down by the Hon'ble High Court of Delhi in case, Athar Parvez Vs. State, this applicant/accused Shakil Ahmad does not deserve the concession of interim bail, so, his application for grant of interim bail is hereby **dismissed**. Dasti copy of this order be provided to the parties. Attested copy of this order be also sent to the Superintendent of Central Jail, Tihar for supplying the same to the applicant/accused Shakil Ahmad.

(PAWAN KUMAR MATTO)
Addl. Sessions Judge (Special Judge NDPS)
North East/KKD Courts/Delhi/04.12.2023