

IA No. 19/2023
SC No. 53/2022
State Vs. Furkan Ahmad
FIR No. 760/2021
PS: New Usmanpur
U/s: 20 (C) of NDPS Act

20.12.2023

**ORDER ON APPLICATION FOR GRANT OF INTERM
BAIL FOR A PERIOD OF TWO MONTHS FILED BY THE
APPLICANT/ACCUSED FURKAN AHMAD.**

1. This order of mine will dispose of an application for grant of interim bail for a period of two months filed by this applicant/accused Furkan Ahmad.
2. I have heard the counsel for this applicant/accused and Ld. substituted Addl. PP for the State.
3. Sh. Amit Gupta, Ld. Counsel for applicant/accused has submitted that this applicant/accused was arrested way back on dated 17.10.2021 and since then, he is behind bars. He has also submitted that the wife of this accused is suffering from hernia and she is to be operated in the LNJP hospital on dated 22.12.2023. He has also submitted that this applicant/accused is having three minor children and there is no one to take care of them and prayed for grant of interim bail for a period of 10 days.
4. On the other hand, Sh. Neeraj Madhup, the Ld. substituted Addl. PP for the State has vehemently opposed the present application and submitted that in the case in hand, on dated 17.10.2021 at about 2:15 AM, this applicant/accused alongwith co-

accused were found transporting the Ganja weight whereof was 31.084 kilograms in a car owned by the co-accused Anuj and further submitted that the contraband has been recovered from the dicky of the said car and submitted that charge against this applicant/accused has been framed u/s. 20(C) of the NDPS Act and submitted that this applicant/accused is having three children aged thereof are 17, 15 and 13 years and one of the child is well grown. He has also submitted that the wife of this applicant/accused was supposed to be admitted in the hospital today, but, she did not report in the OPD of the LNJP hospital, as, it is written by Dr. Pawan Lal and the same is filed with this report by the IO. He has also submitted that since, all the three accused were found in the same vehicle, when they were transporting the contraband of commercial quantity, so, the the embargo contained U/sec. 37 of the NDPS Act is applicable to the case in hand, so, this applicant/accused is not entitled for interim bail 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, this applicant/accused alongwith the co-accused was found in a vehicle bearing registration no. UP-80CC-7027 and 31.084 kilograms ganja has been recovered from the dicky of the said car. Since, the offence alleged to have been committed by this applicant/accused is related to the commercial quantity of the contraband. The applicant/accused has sought interim bail for a

period of two months in his application, on the ground that his wife has to undergo an operation for hernia.

7. Since, the commercial quantity of the ganja is alleged to have been recovered from this accused and 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 vehicle, wherein, the accused were allegedly transporting the contraband, 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 alleged to have been committed by this applicant/accused, 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)* and *Athar Parvez Vs. State, Crl. Ref. 1/2015*, this applicant /accused **Furkan Ahmad** does not deserve the concession of interim bail, so, this application for grant of interim bail filed by the applicant/accused **Furkan Ahmad** is hereby dismissed. Dasti copies of this order be provided to the parties. **The attested copy of this order be sent to the Superintendent of Central Jail, Tihar for supplying the same to this applicant /accused Furkan Ahmad.**

(PAWAN KUMAR MATTO)
Special Judge (NDPS)/Addl. Sessions Judge/
North East/KKD Courts/Delhi/20.12.2023