

IA No. 5/2022
State Vs. Furkan Ahmad & Ors.
FIR No. 760/21
PS: New Usmanpur
U/s: 20 NDPS Act
06.07.2022

Present: Ms. Ria, proxy counsel for the applicant/accused
Shakil Ahmad.
Mr. Shoaib, proxy counsel for the applicant/accused
Furkan Ahmad.
Sh. Sanjay Kumar, Ld. Substituted Addl. PP for the
State.
IO/SI Sudhanshu Singh.
ACP Sanjay Drall.

The matter is fixed for hearing arguments on the application for grant of interim bail for a period of one month filed by this applicant/accused Shakeel Ahmad and also for hearing arguments on the application for bail filed by the accused Furkan Ahmad.

Earlier the IO was called upon throughailable warrants as earlier IO did not appear despite of service of notice. So, theailable warrants issued against this IO which were received back executed. But despite of service throughailable warrants he did not appear. So, this court had to issue warrants of arrest against this IO. But yesterday at 4:15 pm, on moving of an application by this IO, the order vide which the warrants of arrest were ordered to be issued was recalled and DCP (North East) was called upon to apprise about negligent conduct of the IO. But, DCP (North-East) has also failed to appear despite of service. He has sent a letter, wherein he has stated that he is

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unable to appear due to official exigencies and pressing law and order situation in the area and sought exemption. Since the IO appears to be a delinquent person who did not appear despite execution ofailable warrants against him, so this court was desirous to bring the negligent conduct of the IO to the notice of DCP(North-East) but DCP(North-East) also appears to a negligent person as in many case it is observed that whenever this court had tried to apprise him about the negligent conduct of the police officials posted in the North-East district, he makes lame excuses of not appearing before the court. However, DCP (North-East) is exempted from personal appearance for today.

I have heard the arguments of proxy counsel for the applicant/accused Shakeel Ahmed on the application for interim bail and vide my separate detailed order of even date, the said application for grant of interim bail for a period of one month filed by this applicant/accused Shakeel Ahmed has been dismissed.

Since, the matter is also fixed for hearing arguments on the bail application of the accused Furkan Ahmad but proxy counsel for the accused Furkan Ahmad seeks pass over for one hour but Board of this court is heavy as time bound case is also fixed for today, so no ground is made out to pass over the matter

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for one hour. Accordingly, the bail application of the accused Furkan Ahmad is adjourned for **11.07.2022**, it will be last and final opportunity for applicant/accused Furkan Ahmad to argue on the said application.

(PAWAN KUMAR MATTO)
Special Judge (NDPS)/ASJ
North East/KKD Courts/Delhi/06.07.2022

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

1. This order of mine will dispose off an application for grant of interim bail filed by this applicant/accused Shakil Ahmad vide which this applicant/accused has sought interim bail for a period of one month.
2. I have heard the proxy counsel for this applicant/accused and Ld. Substituted Addl. PP for State.
3. The proxy counsel for applicant/accused has submitted that the wife of this accused is suffering from stone problem and she has to undergo surgery for removal of the stone and submitted that son of this applicant/accused is aged about five months is also suffering from pneumonia and prayed for grant of bail for a period of one month.
4. On the other hand, Ld. Substituted Addl. PP for the State has vehemently opposed the present application for interim bail and submitted that since 31.084 kg ganja has been recovered from the car, wherein this applicant/accused alongwith co-accused was traveling and the quantity of the Ganja recovered from the possession of the accused persons is of commercial nature. He has also submitted that IO had gone to verify the

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medical documents of the wife of this applicant/accused and doctor has given his report in writing that there is no record of O.P.D. The patient only came in emergency for consultation and on dated 01.06.2022 patient was advised LAR Cholecystetoy and submitted that no document of illness of son of this applicant/accused is placed on record. On page no. 6 one document is there but no name of the patient is mentioned therein and submitted that since commercial quantity of Ganja is recovered from the possession of accused persons, so, this applicant/accused does not deserve the concession of interim bail and prayed for dismissal of this application for grant of interim bail for a period of one month.

5. I have given thoughtful consideration to the submissions made by proxy counsel for this applicant/accused and Ld. Substituted Addl. PP for State and perused the record.

6. The perusal of the record reveals that 31.084 kg ganja is alleged to have recovered from the car wherein the accused persons including this applicant/accused were traveling and since the IO has also gone to verify the medical documents of the wife of this accused, wherein it is mentioned that patient only came in emergency for consultation and patient was advised LAR Cholecystetoy on 01.06.2022. The photocopy of one document on page no. 6 is mentioned but no name of the patient is mentioned therein. The proxy counsel for this

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applicant/accused has failed to assist the court as to whom this page no. 6 belongs. She has also submitted that it is pertaining to the son of this applicant/accused but no name of any patient is mentioned therein.

7. Since, in the case in hand, 31.084 kg ganja is alleged to have been recovered from this accused persons and the charge u/s. 21(c) of NDPS Act has been framed against this accused, so, the provision u/s. 37 of NDPS Act is applicable in this case. Since, the commercial quantity of ganja is alleged to have been recovered from this accused and as per the law laid down by their lordship of the High Court of Delhi in "*CRL.REF.1/2015 titled Athar Parvez Vs. State*", this accused is not entitled to the benefit of the interim bail. Since, the charge u/s. 21(c) of NDPS Act has been framed against this accused so taking into consideration the fact that the commercial quantity of the contraband is alleged to have been recovered from the accused, nature of accusation, gravity of offence, the provision of Sec. 37 of NDPS Act and the judgment passed by the Division Bench of the Hon'ble High Court of Delhi in *Athar Parvez Vs State*, this applicant/accused **Shakil Ahmad** does not deserve the concession of interim bail, so, this application for grant of interim bail filed by the applicant/accused **Shakil Ahmad** is hereby dismissed, being devoid of merits.

8. Copy of this order be given dasti, if applied for.

(PAWAN KUMAR MATTO)
Special Judge (NDPS)/ASJ
North East/KKD Courts/Delhi/06.07.2022