

IA No. 01/2022
Mumrez Alam Vs State

In re:-
SC No. 280/2021
FIR No. 200/2021
PS Seelampur
U/s 21/29 NDPS Act

18.01.2022

Present: Sh. M. K. Khanna, Ld. Counsel for applicant.
Sh. Masood Ahmad, Ld. Addl. PP for the State along
with Inspector Investigation Sunil Kumar and SI
Shailender Tiwari.

The matter is taken up for hearing through video conferencing by Cisco Webex Meeting App in terms of office order No. 1/RG/DHC/2022 dated 12.01.2022 of the Hon'ble High Court of Delhi and order No. 478-490/Judl./N-E/KKD/Delhi/2022 dated 14.01.2022 of Learned Principal District and Sessions Judge, North East, Delhi.

Further submissions on the application are heard.

Applicant is in custody in the present matter on the allegations that he was found having 10 grams smack in his possession on 18.06.2021. The applicant is seeking bail in the case with submissions that he has been falsely implicated in the present case and nothing was recovered from his possession and that case of the prosecution is concocted and fabricated. Ld. Counsel for applicant has raised the plea about noncompliance of provisions of Section 42 and 50 of NDPS Act submitting that no authorized officer conducted the raid after receiving secret information and searched the applicant. It is submitted that intimation about the apprehension was intimated to the SHO but prior to that time, ACP

Seelampur as Gazetted Officer is stated to be present at the spot and in his presence alleged search was conducted and no document is placed on file showing the presence of ACP on the spot and witnessing the search and recovery of alleged contraband.

It is submitted that investigations are complete and the applicant is having clean antecedents and there is no chance of his absconding and he undertakes that he will not hamper/tamper with the evidence and the witnesses and will appear on each and every occasion as and when directed by the Court.

It is intimated by Inspector Investigation Sunil Kumar that FSL result is still pending and no tentative date till which the matter will be reported is given by the FSL authorities.

It is stated by Ld. APP that contention raised about noncompliance of provisions of Section 42 and 50 of NDPS Act are to be considered during the trial and are not relevant at this stage and considering that applicant is behind the bars since long time and that FSL result has not come on file so far without which the matter cannot proceed further and that the case is not pertaining to commercial quantity, he is having no objection if the discretionary power of the Court is exercised in favour of the applicant.

Considering the facts and circumstances of the case, period of the custody and nature of the offence and that there are no chances for initiation of trial at earliest for want of FSL result, I am of view that the case is made out to admit the applicant for bail. As such, application is allowed.

Applicant be released from the custody on furnishing of bail bonds in the sum of Rs. 25,000/- with one surety of like amount. The applicant upon release from the custody will provide

his mobile number to the SHO, Seelampur and will ensure the number working all the time. The applicant will not leave NCT of Delhi without the prior permission of the Court.

Copy of order be provided to the parties and be also sent to the Superintendent Jail concerned for intimation.

(SUNIL CHAUDHARY)
Special Judge (NDPS)/ASJ
North East/ Delhi 18.01.2022