

CNR No. DLWT01-000498/21
SC No.49/21
FIR No.301/19
u/s 21/29 NDPS Act
PS Crime Branch
State Vs. Sonu Kumar & Anr.

27.10.2023

File taken up today on an application u/s 439 Cr.P.C. filed on behalf of applicant/accused Sonu Kumar seeking bail.

Present: Mr. Subhash Chauhan, Ld. Addl. PP for the State.
Mr. Deepak Ghai, Ld. counsel for applicant/accused Sonu Kumar.

Ld. Addl. PP for the State as well as Ld. defence counsel have made detailed oral arguments. Application seen. Relevant record perused.

Ld. defence counsel submits that the applicant/accused is in JC since almost two years and he did not misuse the liberty of interim bail granted earlier on various occasions. He further argued that the trial of case will take fair long time as only two witnesses out of 19 witnesses have been examined so far. He pointed out that the co-accused Suraj is already on bail in this case. He heavily relied upon decision of Hon'ble Supreme Court of India in case titled *Jitendra Jain V/s NCB, SLP (Crl.) 8900/2022 and Dheeraj Kumar Shukla V/s State of U.P. dated 25.01.2023 in SPL(Crl.) no.6690/2022*. He further stated that the applicant will obey all terms and condition of the bail and will attend the trial of the case with full punctuality. Finally, he has prayed that the accused may kindly be released on bail.

On the other hand, the present bail application is strongly opposed on behalf of the State while stating that the applicant is facing serious charges of offence u/s 21(c) of NDPS Act and he was found in illegal possession of commercial quantity of one Kilogram of Heroin.

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He further submits that mere further custody in a case, the accused is not entitled to bail particularly in a serious case of NDPS Act, wherein the accused was found in huge quantity of contraband and therefore, the rigor of Section 37 of NDPS Act applies in this case. He further submits that the applicant is also involved in five cases of Excise Act. He further contends that the similar bail application of applicant has already been dismissed vide detailed order dated 11.07.2023 and since then there is no change in circumstances. He seeks reliance upon the decision of Hon'ble Supreme Court in case *NCB V/s Mohit Aggarwal, SLP to Appeal (Crl.)No.6128-6129/2021*. Finally, he prays for dismissal of present bail application.

The menace of selling of Smack/ Heroin has become rampant and the young generation is being seriously indulged in consumption of the contraband and in this regard, Hon'ble Supreme Court of India in case titled as “***Union of India Vs Ram Samujh & Ors.***” 1999 (9) SCC 429, has elaborated that offences under NDPS Act are even more serious and grave than Murder cases. The Apex Court observed, “It is to be borne in mind that the aforesaid legislative mandate is required to be adhered to and followed. It should be borne in mind that in a murder case, the accused commits murder of one or two persons, while those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting death blow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the

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society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely. Reason may be large stake and illegal profit involved. This line of reasoning has been reiterated in the pronouncement in “***State of Kerala Vs Rajesh***” in **Criminal Appeal No.(S). 154157 of 2020** (arising out of SLP (Crl.) No.(s).7309-7312 of 2019) decided on 24.01.2020 by the Hon’ble Supreme Court of India. Reference may also be made to recent order passed by Hon'ble Delhi High Court in case titled ***Sheela V/s State of NCT of Delhi in Bail Application no.1309/2023 dated 11.10.2023***, wherein the bail application of accused was dismissed while considering the large commercial quantity being recovered from the possession of accused and non-satisfaction of twin conditions as mentioned in Section 37 of NDPS Act.

After considering the rival submission of both sides and in view of gravity of offence punishable under Section 20/29 NDPS Act bearing punishment upto 20 years, serious allegations against accused as to he was allegedly indulged in trade of drugs and huge recovery of contraband i.e. one Kilogram of *Heroin* which is far exceeding the threshold of commercial quantity of the same and its possible cascading repercussions on the potential consumers particular youth of society, applicability of bar to bail u/s 37 of NDPS Act and at this stage, it cannot be held that the applicant is not guilty of alleged offence and he cannot indulge in such activity in future and in view the previous

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involvement of applicant in five other cases of Excise Act as well as the fact that the similar bail application of applicant/accused has already been dismissed by this Court vide detailed order dated 11.07.2023 and since then there is no change in circumstances, this Court is not inclined to grant bail to the applicant/accused at this stage. Accordingly, the present bail application stands dismissed.

Nothing stated herein-above shall tantamount to any expression of opinion on the merits of the case.

The copy of this order be given dasti to the parties and be sent to the concerned Jail Superintendent for information to accused.

Put up on the date already fixed i.e. 30.11.2023.

(RAKESH KUMAR RAMPURI)
ASJ/ SPECIAL JUDGE: (NDPS)
(WEST)DELHI/ 27.10.2023.