

SC 116/2023
STATE Vs. EMMANUEL
FIR no.263/2022
PS Crime Branch-West Delhi
u/s 21/29 NDPS Act, 201 IPC & 14 Foreigners Act.

19.02.2024

File taken up on the 2nd application u/s 439 Cr.P.C. for grant of bail filed on behalf of applicant/accused Emmanuel.

Pr: Sh. Subhash Chauhan, Ld. Addl. PP for the State.
Ld. Counsel for the applicant/accused through VC.
Ld. Proxy Counsel for the applicant/accused.

File perused. Heard.

Remaining arguments heard.

It is submitted by the Ld. Counsel for the applicant that the applicant/accused is innocent and is in JC since 15.11.2022. It is further submitted that the applicant/accused has nothing to do with the alleged offence and he has been falsely implicated in the present case. It is further submitted that there is complete violation of Section 50 of NDPS Act in the present case. With these submissions, prayer is made for grant of bail.

On the other hand Ld. Addl. PP has strongly opposed the bail application on the ground that 52 grams of Cocaine and 495 Grams of Heroin was recovered from possession of the accused. Ld. Addl. PP further submits that the possibility of tempering of evidence and influencing of witness and fleeing

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away from the justice cannot be ruled out in case applicant/accused is admitted on bail. Ld. Addl. P.P has prayed for the dismissal of the present bail application of the accused. and prays for the dismissal of the same.

It is trite principle of law that while granting bail the court has to keep in mind (a) The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made; (b) the antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a court in respect of cognizable offence; (c) the possibility of the applicant to flee from justice; (d) the possibility of the accused's likelihood to repeat similar or other offences; (e) Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her; (f) Impact of grant of bail particularly in cases of large magnitude affecting a very large number of people; (g) The court should consider reasonable apprehension of tampering of the witnesses or apprehension of threat to the complainant and any other aspects of the case should be taken into consideration while granting bail.

In the present case accused is facing trial for the offence u/s 21(c)/29 of NDPS Act, 201 IPC and 14 of Foreigners Act. The first bail application of the accused was dismissed vide detailed order dated 18.11.2023. It is pertinent to mention here

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that the same ground of violation of section 50 of NDPS Act was raised on behalf of the accused in the previous bail application and same was adjudicated by the court. There is no material change in the circumstances of the present case except passing of some more days of accused in judicial custody. Allegations against the accused are serious in nature. There are apprehensions that in case applicant/ accused is enlarged on bail, there are every chances of her fleeing from course of justice. Hence, considering the facts of the case and seriousness of the allegations against the applicant/accused, no ground is made out for grant of regular bail to the accused, at this stage. Hence, the present application is dismissed.

Copy of the order be given dasti, as prayed for.

(SATVIR SINGH LAMBA)
ASJ/ SPECIAL JUDGE (NDPS),
WEST DISTRICT, DELHI/19.02.2024