

**SC 273/2024
STATE Vs. MUSLIM
FIR no.141 /2024
PS Moti Nagar**

01.06.2024

File taken up on an application u/s 439 Cr. P.C. filed on behalf of the applicant/accused Muslim Khan for grant of bail.

Pr: Sh. Subhash Chauhan, Ld. Addl. PP for the State.
Ld. Counsel for the applicant/accused.
HC Anil on behalf of IO.

File perused. Reply filed on behalf of the IO. Copy supplied. Arguments heard. Case file gone through.

It is submitted by the Ld. Counsel that the applicant is innocent and has been falsely implicated in the present case. It is further submitted that the applicant/accused had no hand on the commission of offence and he is in JC since 20.12.2023. It is further submitted that nothing was recovered from the accused or at his instance and the alleged recovery is planted upon the applicant/accused. It is further submitted that the alleged recovery is of intermediate quantity and there is no bar of section 37 of NDPS in the present case. It is further submitted that the chargesheet has already been filed and the case is at the stage of framing of charge & conclusion of trial will take long time. It is further submitted that no useful purpose would be served by keeping the applicant in JC any more. With these submissions, prayer is made for grant of regular bail.

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On the other hand, Ld. Additional PP for the state has strongly opposed the present bail application of the accused on the ground that the allegations against the accused are serious in nature and the possibility of tempering of evidence and influencing of witness and fleeing 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.

The alleged recovery from the applicant/accused is stated to be of 153.19 grams of Heroin and same is of intermediate quantity.

Considering the fact that the amount of contraband received from the possession of the accused is of intermediate quantity, therefore, bar u/s 37 of NDPS is not made out in the present case. Applicant/accused is in JC since 28.02.2024. Charge is yet to be framed. The conclusion of trial shall take more considerable time. Accordingly, without reflecting much on the merits of the case, at this stage and keeping in view the totality of facts and circumstances of this case, the applicant/accused is admitted to bail upon furnishing of personal bond in sum of ₹20,000/- with one surety of the like amount and subject to the same conditions :

- i) That the accused will not jump the bail and will appear in the court regularly.

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- ii) That accused shall not indulge into similar offence or any other offence in the event of release on bail.
- iii) That accused shall not tamper/influence any evidence/ witness in any manner.
- iv) That in case of change of residential address, accused shall intimate the court about the same within a week.
- v) That accused shall not leave the country without permission of Court.

Nothing stated hereinabove shall tantamount to be an expression of final opinion on the merits of the case. With above observations, application stands disposed off accordingly.

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

Copy of the order be also sent to the concerned Jail Superintendent.

**(SATVIR SINGH LAMBA)
ASJ/ SPECIAL JUDGE (NDPS),
WEST DISTRICT, DELHI/01.06.2024**