

**SC 439/2024**  
**STATE Vs. VIKAS @ VICKY**  
**FIR no.21/2024**  
**PS Crime Branch- West Delhi**

**02.12.2024**

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

File perused. Heard.

This is an application for grant of bail filed on behalf of the applicant/accused Vikas @ Vicky for grant of bail.

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/accused is innocent and has been falsely implicated in the present case by police in collusion with the complainant. It is further submitted that the alleged recovery is 460 grams of heroin, but contended that same is planted one & the version of FIR is concocted one. It is further submitted that there is violation of section 42 of NDPS Act. It is further submitted that the applicant/accused has nothing to do with the commission of alleged offence and the disclosure statement/confession has no relevance in the present matter. It is further submitted that the applicant is sole bread earner in his family. With these submissions, prayer is made for grant of regular bail.

Contd....

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. PP for the state further submits that the recovery in the present case is commercial in nature and there is bar u/s 37 of NDPS Act regarding the bail. Ld. Addl. P.P has prayed for the dismissal of the present bail application of the accused.

Brief facts of the case are that on 27.01.2024 applicant/accused was apprehended on the basis of a secret information and in pursuance of the said secret information 460 grams of contraband (Heroin) was recovered from his possession. Thereafter, accused was arrested in the present case and his car Mahindra SUV 300 bearing no. DL-10CM 4981 used for the alleged trafficking of drug was also seized. It is relevant to mention here that the prosecution has claimed that all the compliances of provisions of NDPS Act were duly complied with. Perusal of the chargesheet also reveals that the abovesaid secret information was duly recorded in writing and information u/s 42 NDPS And 52 NDPS Act are also on record along with the special report u/s 57 NDPS Act and copy of order u/s 52 A NDPS

Contd....

Act with court sample seal. Admittedly, notice u/s 50 NDPS Act was given to the accused. Further, as per the analysis of mobile phone of the accused persons, it is also brought on record that the accused/applicant was having CDR connectivity with the co-accused.

It is pertinent to mention here that in the present case, recovery of the contraband is of commercial quantity, therefore, bar u/s 37 of NDPS is made out in the present case.

Further, the menace of selling of 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 society; even if they are released temporarily, in all probability, they would continue their nefarious activities of

Contd....

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.

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.

It is pertinent to mention here that the applicant/accused is also involved in 22 other criminal cases including several cases

Contd...

u/s 307, 306, 323, 324, 325, 452 IPC and other cases of Excise Act, Arms Act, Electricity Act and EC Act. As per the report of the IO accused is Bad Character of PS Patel Nagar, Delhi. Moreso, in the present case the charge is yet to be framed against the accused persons. Therefore, considering the facts & circumstances of the case as well as keeping in view the nature & gravity of the allegation against the applicant/accused, this Court is not inclined to grant bail to the applicant/accused at this stage. Hence, the present application is dismissed.

Nothing discussed herein-above shall have any bearing upon the merits of the case.

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

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

**(SATVIR SINGH LAMBA)**  
**ASJ/ SPECIAL JUDGE (NDPS),**  
**WEST DISTRICT, DELHI/02.12.2024**