

SC 439/2024
State Vs. Vikas @ Vicky & Etc.
FIR no. 21/2024
PS Crime Branch-West Delhi
u/s 21/25/29 NDPS Act

07.10.2024

File taken up on an application u/s 439 Cr. P.C. filed on behalf of the applicant/accused Lal Mohd.

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

File perused. Heard.

Reply filed on behalf of the IO. Copy supplied.

Arguments heard. Clarifications sought.

Ld. Counsel submitted that applicant is in JC since 31.01.2024 and he has been falsely implicated in the present case. It is further submitted that applicant belongs to a respectable family and earn his livelihood in lawful manner. It is further submitted that the applicant is maintaining his family member and there is no one to look after his family other than the applicant. It is further submitted that the chargesheet has already been filed in the present case and the applicant is not required for any investigation and no purpose would be served by keeping the accused behind the bars. It is further submitted that the applicant does not have any past criminal record and he is not a previous convict. It is further submitted that mere pendency of several

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criminal cases cannot itself be the basis for refusal of bail. It is further submitted that the applicant undertakes to join the investigation as and when directed to do so. It is further submitted that co-accused was granted bail by Hon'ble High Court vide order dated 20.05.2024. With these submissions, prayer is made for grant of bail on the ground of parity with co-accused.

On the other hand, Ld. Addl. P. P. for the state has strongly opposed the present bail application on the ground that huge quantity of Heroin has been recovered in the present case, which is a commercial quantity and therefore, bar u/s 37 of NDPS Act is applicable. Ld. Addl. PP further submits 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.

In the present case, on 27.02.2024, 460 grams of Heroin was recovered from the possession of co-accused Vikas @ Vicky and during investigation, he disclosed that he used to procure contraband from accused Mangu @ Mangat Rama & Ashu and further supply it to applicant/accused. It is alleged that the recovered contraband in the present case is of commercial quantity and same was ordered by the applicant/accused. It is further alleged that as per the analysis of the mobile phone of the

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applicant/accused, he was having proper CDR connectivity with the main accused Vikas @ Vicky.

Further, 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 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.

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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 chargesheet has been filed for the offence u/s 21/25/29 of NDPS Act. Collective recovery of the contraband in the present case is of commercial quantity. Applicant/accused is also involved in another criminal case of similar nature. Earlier bail application of the applicant/accused was dismissed on 06.06.2024. Allegations against the accused are serious in nature. Moreso, there are apprehension that in

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case applicant/accused is enlarged on bail, there are every chances of his fleeing from course of justice, tamper evidence or may coerce/influence witnesses of the case. 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.

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

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

(SATVIR SINGH LAMBA)
ASJ/SPECIAL JUDGE (NDPS),
WEST DISTRICT, DELHI/07.10.2024