

SC No. 58078/16
FIR No. 36/2016
P.S. Crime Branch
U/s 21/29 of NDPS Act
State Vs. Ajay Kumar & Ors.

08.05.2019 (02.12 p.m.)

Present: Mr. Parvesh Ranga, Ld. Addl. PP for the State.

Ld. Counsel, Mr. Amit Gupta for applicant/accused Rashid @ Sajid(in short accused), qua his pending regular bail application u/s 439 Cr.P.C dated 30.04.2019 on which arguments already heard from both sides and also heard afresh today at this time, as jointly prayed, and this judicial file taken up today at this stage for this limited purpose, though it was to be taken at 12.30 p.m today but Court was not free at 12.30 p.m for the purpose of passing order on this bail application. Due to this reason, this application to be decided today in the afternoon session.

The aforesaid bail application of this accused has been filed mainly on the grounds that he has been falsely implicated in the instant case ; that as per prosecution case, the alleged contraband has been recovered from co-accused Ajay Kumar and Praveen Kumar and they disclosed the name of this accused as drug supplier ; that this accused is only sole bread earner of his family ; that investigation of the instant case has already been completed ; that he has no criminal antecedents ; that he is ready to furnish reliable bail bonds, if released on bail at this stage. Several authorities have been cited by Ld. Defence Counsel in support of contentions of this bail application. However, photocopies of only two authorities have been attached with this bail application for perusal of this Court and these are as under :-

1. **Mohd. Zuber Vs. State of N.C.T of Delhi**, reported as 2006[3] JCC [Narcotics] 206(Delhi High Court).
2. **Dilbagh Singh Vs. D.R.I**, reported as Manu/DE/0581/2009(Delhi High Court).

Per contra, this bail application opposed from other side and mainly on the grounds that the contraband i.e. Heroin recovered from the possession of other two co-accused in this matter was of commercial nature and this accused is the main supplier of such contraband ; that this accused was intentionally avoiding his arrest in this matter for about three years period before his arrest on 03.04.2019 and due to this reason, he was also declared as proclaimed offender earlier(PO) vide order of this Court

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dated 22.11.2016 ; that some investigation of this case qua this accused yet to be completed as he was arrested recently in this matter ; that seeing the previous conduct of this accused, there are chances that he may again flee from justice and may adversely influence the prosecution case/prosecution witnesses(PWs), if allowed to be released on bail at this stage.

I perused the judicial file minutely for this purpose.

In the considered opinion of this Court, the contraband i.e. Heroin, reportedly recovered earlier from the possession of other two co-accused in this matter was of commercial nature and this accused is reportedly the main supplier of such contraband. This accused was reportedly intentionally avoiding his arrest in this matter for about three years period before his arrest on 03.04.2019 and due to this reason, he was also declared as PO vide order of this Court dated 22.11.2016. It is further reported that some investigation of this case qua this accused yet to be completed as he was arrested recently in this matter. Seeing the previous conduct of this accused, in the considered view of this Court, there are chances that he may again flee from justice and may adversely influence the prosecution case/PWs, if allowed to be released on bail at this stage. With due respect, the above mentioned relied upon authorities, in support of contentions of this bail application, are not found helpful to this accused, qua this bail application, as, with due respect, the facts and circumstances of the cited authorities are quite different from the facts and circumstances of the instant case. For these reasons, I do not find any merits in this application at this stage and the same is hereby dismissed at this stage. Anything written here need not be treated to affect further proceedings of this case on merits. As prayed for, copy of this order be given dasti to Ld. Counsel for accused as well as to State.

A copy of this order be sent to Superintendent of Jail concerned for information. With this order, now to come up on due date i.e., 04.06.2019 for purpose fixed.

(Dr. SHAHABUDDIN)
Addl. Sessions Judge/West/Delhi/08.05.2019