

IA-1-2022 SC No.594/2022

State V. Aalok Kumar @ Alok S/o Sh. Ajay Mishra

FIR No. 386/2022

PS Bawana

Under Section 20/61/85 NDPS Act

09.11.2022

Pr: Sh. Gurbhej Singh Guraya, Ld. Addl. P.P for the State.
Ms. Sunita Tiwari, Ld. Counsel for the applicant/accused
I.O with case file.

Arguments heard on the application under Section 439 Cr.P.C for grant of regular bail to accused-applicant.

It is pleaded on behalf of the applicant that the accused/applicant has been falsely implicated in the present case and has been lying in Judicial Custody since 29.05.2022. The accused/applicant has no concern with the alleged incident/offence. Nothing has been recovered from the possession of the accused/applicant and the alleged recovery is planted upon the accused/applicant. It is further pleaded on behalf of the accused/applicant that the investigation qua the accused/applicant in the matter has already been completed and he is no longer required for purpose of investigation.

It is further argued that the alleged recovery of contraband falls under the category of intermediate quantity and hence the rigors of Section 37 of NDPS Act are not attracted. Hence, prayer is made for grant of regular bail to the accused/applicant.

Per contra, Ld. Addl. P.P for the State has vehemently opposed the bail application stating that as per the reply filed by the IO, the accused/applicant was apprehended by HC Ravindra

and ct. Sajjan who were on patrolling duty in the area and when the accused/applicant seeing them started to run. From his possession one bag was recovered which contained a polythen which on checking was found to be containing Ganja. Senior officials were informed who came at the spot and weighed the said contraband which was found to be 2 KG of Ganja. The same was seized. Accused/applicant was arrested.

It is fairly conceded by Ld. Addl. PP for the State that the recovered contraband is of intermediate quantity and hence, the bar under Section 37 of Act does not apply.

Heard and considered.

It is admitted case that the recovered contraband falls under the category of intermediate quantity and hence, the bar under Section 37 of NDPS Act is not applicable in the present case. There is no possibility of tampering with the evidence or material recovery witnesses being police officials being threatened. In this regard, the judgment of Hon'ble Delhi High Court in case titled **Ravi V. State, Bail Application No. 190/2020 dated 28.02.2020,** also applies in the present case in hand. The investigation in the present matter is already complete. Chargesheet too has been filed and matter is pending at the stage of charge .

Keeping in view the above facts and circumstances of the case, **the accused/applicant Aalok Kumar @ Alok S/o Ajay Mishra is admitted to bail subject to furnishing a personal bond in the sum of Rs.50,000/- with one surety in the like amount on the following conditions:**

- i) That the applicant/accused shall not leave Delhi without prior intimation to the IO/Court either by written intimation or through SMS to IO on mobile phone in advance;

- ii) That the applicant/accused will supply all numbers of his functioning phones/mobile phones to the IO as well as about his whereabouts.
- iii) That the applicant/accused shall not tamper with the evidence;
- iv) That the applicant/accused shall not try to contact in any manner or threat the prosecution witnesses;
- v) That in case of change of his residential address, he shall intimate the court about the same;
- vi) That the applicant shall attend the Court on each and every date of hearing without fail.
- vii) In case of involvement in any criminal case during bail period the bail shall be liable to be cancelled.

A copy of this order be sent to the Jail Superintendent concerned for further communication to the accused/applicant.

(Gagandeep Singh)
ASJ/Spl. Judge (NDPS):
North, Rohini Courts, Delhi
09.11.2022