

Dr. TARUN SAHRAWAT
ASJ-04/Special Judge (NDPS)
South-East District, Saket Courts,
New Delhi

Bail Matters 2461/2024
STATE Vs. ASHISH RAI
FIR No. 256 /2022
PS- (Sun Light Colony)
u/s 20/29/61/85 of NDPS Act

23.08.2024

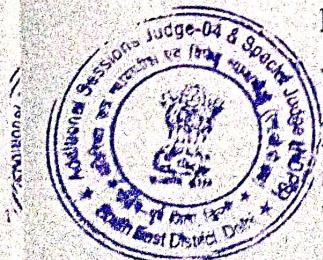
File taken up today on an application under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023, filed on behalf of the applicant/accused Ashish Rai for grant of regular bail.

Present : Sh. Ashesh Kumar, Ld. Addl. PP for the State.

Sh. Naveen Panwar, Ld. Counsel for the
applicant/accused.

1. The present application has been filed u/s 483 of Bhartiya Nagrik Suraksha Sanhita, 2023 on behalf of the applicant/accused Ashish Rai seeking regular bail in FIR No. 256/2022, PS Sun Light Colony for the offences punishable under Sections 20/29/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

2. Ld. Counsel for applicant/accused submitted that the applicant/accused has been languishing in JC since 07.05.2022. Ld. Counsel further submitted that the applicant/accused has been falsely implicated in the present matter as he has nothing to do with alleged incident. Ld. Counsel further submitted that the present applicant/accused may be released on the ground of parity for the reason being as co-accused Kanchaman Yonjan, who was arrested along with the present applicant from the spot, has been released on regular bail by the Hon'ble High Court of Delhi vide order dated 08.07.2024. Ld. Counsel further submitted



that the role of the present applicant is similar to the co-accused Kanchaman Yonjan and that the quantity recovered from the present applicant was 3.025 kg i.e. much lesser than the recovery effected from the co-accused Kanchaman Yonjan i.e. 10.10 kg 'charas', therefore, the present applicant/accused may also be granted bail. Ld. Counsel further submitted that the investigation in the present matter has been completed, chargesheet has already been filed and charges have also been framed, therefore no purpose would be served by keeping him behind the bars. Ld. Counsel thus, submitted that applicant/accused ought to be granted bail and he is ready to abide by all the terms and conditions imposed upon him by this court.

3. *Per contra* Ld. Addl PP for State vehemently opposed the bail application citing the gravity of the offences as one of the main grounds. Ld. Addl. PP further submitted that commercial quantity of contraband i.e. total 15 kg 155 grams of 'charas' was recovered in the present matter from the accused persons. Ld. Addl. PP further submitted that prosecution witnesses are yet to be examined, therefore, the bail ought not to be granted to present applicant/accused as he may flee from justice and may be involved in other offences of similar nature.

4. I heard the arguments addressed by the opposite parties and also perused the entire records.

5. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of



the offence being repeated; the nature and gravity of the accusation; severity of the punishment, the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, period of incarceration is also a relevant factor that is to be considered.

6. The recovery in the present case was made in the following manner which led to the registration of the present FIR against the present applicant/accused and co-accused persons:

Sr. No.	Recovery from whom	From what	How	How much
1.	Kanchaman Yonjan	Carrying a purple bag having 4 chains	When the bag was checked, 9 transparent polythenes were found in 2 nd chain and 2 polythene in 3 rd chain. In the 2 polythenes, one was having brown colour small pieces and in second black colour substance. Both on smelling and texture seems like	Polythene one containing charas weighing 4.05 kg and second polythene containing charas weighing 6.05 kg



2.	Dhananjay	Carrying a brown bag having 3 chains	charas. When the bag was checked, 1 transparent polythene was found in the 3 rd chain. On checking it was containing brown colour small pieces which on smelling and texture seems like charas.	Polythene containing charas weighing 2.03 kg
3.	Ashish	Carrying a black bag having 3 chains	When the bag was checked, 1 transparent polythene was found in the 3 rd chain. On checking it was containing black colour substance which on smelling and texture seems like charas.	Polythene containing charas weighing 3.025 kg



7. It is evidence from the chart that from the present applicant/accused, the quantity of contraband substance recovered is 3.025 kg 'charas' i.e. much lesser than the quantity of contraband substance recovered from co-accused Kanchaman Yonjan i.e. 10.10 kg, who has been enlarged on the regular bail by the Hon'ble High Court of Delhi vide order dated 08.07.2024.

8. During the course of arguments, it was also brought to the fore that investigation in the present matter has been completed, chargesheet has already been filed and charges have also been framed. Further, as reported, accused has no previous involvements in other criminal offences.

9. Keeping in view the aforesaid facts and circumstances and considering the quantity seized from the present applicant/accused and further, the fact that co-accused Kanchaman Yonjan has already been granted regular bail vide order dated 08.07.2024, passed by Hon'ble High Court of Delhi, and also considering the undergone period of custody and the fact that the applicant is involved in no other case of a similar nature, I deem it fit to grant bail to accused Ashish Rai, on his furnishing personal bond with surety bond of Rs. 1,00,000/- with one surety in the like amount each, subject to following conditions:

- a. The applicant shall join and cooperate with the investigation as and when directed by the IO;
- b. The applicant will not leave the boundaries of Delhi without prior permission of the Court, and will deposit his passport with the Court;
- c. The applicant shall provide the details of his permanent address to the learned court and intimate the court, by way of an



affidavit, as well as the IO about any change in his residential address;

d. The applicant shall, upon his release, give his mobile number to the concerned IO/SHO and shall keep his mobile phone switched on at all times;

e. The applicant shall appear before the court on each and every date of hearing;

f. The applicant shall, after his release, appear before the concerned IO/SHO once in every week;

g. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;

10. Needless to say, the above-mentioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the regular bail application stands disposed of.

11. In compliance of **Sanjay Singh Vs. State (Govt of N.C.T of Delhi) Writ Petition Criminal 974/2022**, copy of this order be sent to concerned Jail Superintendent to convey the order to inmate.

12. Copy of the order be given dasti.



Sd/-

(Dr. TARUN SAHRAWAT)
AS. 04, Spl. Judge (NDPS),
South East District, Saket Court,
Saket Court Complex, New Delhi
New Delhi /23.08.2024