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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **BAIL APPLN. 4218/2024**

KALYAN RAM

.....Petitioner

Through: **Mr.Naveen Panwar, Advocate**

versus

STATE GOVT. OF NCT DELHI

.....Respondent

Through: **Ms.Richa Dhawan, APP for the State
alongwith SI Kartar Singh, P.S.-Anti
narcotics Cell-OND**

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

16.09.2025

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1. Claiming himself to be falsely implicated, the applicant herein seeks indulgence of this Court for grant of bail during pendency of the trial in the criminal proceedings arising out of FIR No. 177/2022 dated 14.04.2022 for the offences punishable under Sections 21/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act'), registered at Police Station Narela.

2. Briefly speaking, per FIR, on 14.04.2022, upon receiving information from an informer regarding Aamna and Ravi supplying heroin, a raiding party was formed. Raid was conducted in which Aamna with 400 gm of Heroin and Ravi with 100gm of Heroin were apprehended and arrested.

2.1 Per chargesheet, during the course investigation, upon the disclosure statement of Co-accused Aamna who disclosed Imran as her supplier, the raiding team was constituted on 05.05.2022. Co-accused Imran @ Imu was



apprehended along with 500gm Heroin which was recovered from his scooty which he was riding at that time.

2.2 The accused Imran in his disclosure statement revealed that he sometimes procured heroin from Sarvesh through applicant and Sameem. Once again, a raiding team was formed. During Police custody remand on 08.05.2022, accused Imran led to the arrest of Sameem Khan and Kalyan Ram, the applicant from Bareilly along with a Swift car. After informing them of their legal rights, a cursory search was conducted, but no drugs were found. On searching the Swift car, a black bag containing a waxy transparent bag tied with a rubber band was recovered, filled with brown powder. Field testing confirmed heroin weighing 700 grams. The contraband was marked, sealed with stamp, and seized along with the car. Sameem and the applicant were arrested and admitted in their disclosure that they supplied heroin for Sarvesh, who prepared it from raw material procured from Jharkhand, and that the 700 grams recovered had been taken from him to deliver to one Raju.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would submit that the applicant has been in judicial custody since 08.05.2022, about 3 years and 4 months. He would urge that prolonged incarceration itself constitutes a ground for bail. Reliance has been placed on *Jitendra Jain v. NCB (SLP CrI. 8900/2022)* and *Dheeraj Kumar Shukla v. State of U.P. (SLP CrI. 6690/2022)* where bail was granted even in cases involving commercial quantity on account of prolonged custody.



4.1 He would also submit that 3 co-accused persons of the applicant were granted bail by the learned Sessions Court *vide* order dated 02.11.2022, 18.07.2023 and 24.07.2023. The learned counsel further submits that the applicant deserves bail on the grounds of parity alone.

4.2 He would further submit that the applicant has been falsely implicated in the present case and the investigation suffers from grave procedural lapses. The chargesheet itself does not disclose how the Petitioner was apprehended, nor does it mention the constitution of the raiding team or the DD entry reflecting their departure for the raid. He would further submit that no site plan was prepared or filed, and there is no record of safe custody of the seized contraband in the Malkhana. Further, statements of the raiding team members under Section 161 CrPC have not been recorded.

4.3 Learned counsel would also submit that the prosecution has also failed to associate any independent public witness, despite the alleged apprehension of the accused at Devchara Chowk bus stand, a public place. No attempt was made to secure the presence of passersby, and no reasons for non-association of public witnesses have been recorded. He would urge that another serious lapse is the complete absence of videography or CCTV footage. The alleged recovery took place in a public place, yet no photographs or videos were taken, nor has any CCTV footage been collected.

4.4 Furthermore, he would submit that no contraband was recovered from the Petitioner's person. The alleged heroin was recovered from the dicky of a car owned and driven by co-accused Shamim. He would urge that the applicant was merely present in the vehicle, which does not establish knowledge or conscious possession. He would also submit that the



prosecution has failed to produce any material showing any connection or communication between the applicant and the co-accused, thereby failing to establish any criminal conspiracy.

4.5 Furthermore, he would point out that the samples of the alleged contraband were dispatched to FSL after a delay of 17 days, whereas Standing Order 1/88 mandates dispatch within 72 hours. This unexplained delay is fatal to the prosecution.

5. Learned APP for the State would oppose the bail plea arguing that the applicant deserves no indulgence from this Court as commercial quantity of psychotropic substances is involved in the incident and there remains a genuine risk of him absconding or tampering with the evidence.

5.1 She would further submit that applicant's previous bail application has been dismissed by the learned ASJ, Rohini Courts *vide* order dated 11.01.2023. Subsequently, his bail application was again dismissed by ASJ, Rohini Courts *vide* order dated 03.05.2023. She states that if bail is granted to the applicant, he may indulge in drug trafficking and/or abscond.

6. Having heard, I am of the view that there may be some substance in some of the arguments on merits addressed by the learned counsel for the applicant but the same is matter of trial. However, I am of the view that at this stage, in light thereof, it is a fit case for bail. Let us see how.

7. No independent public witness was associated at the public bus stand, nor were reasons for their absence recorded; further, no videography, photographs, or CCTV footage was collected. The petitioner had no contraband on his person, as the alleged heroin was recovered from the car's dickey belonging to co-accused Shamim. Mere presence in the vehicle does not prove conscious possession, and no material links or communication



with the co-accused have been produced to establish conspiracy.

8. The three co-accused Ravi, Imran and Amna who was implicated along with the applicant, have already been granted bail *vide* 02.11.2022, 18.07.2023 and, 24.07.2023 respectively by the learned Sessions Court during the pendency of the trial by this Court.

9. It transpires that the applicant was arrested on 08.05.2022. He has no criminal antecedents of any kind. Further, the applicant has deep roots in society. Thus, the suspicion of flight risk or absconding is unfounded.

10. Investigation is over qua the applicant as the charge sheet has been filed. He is thus not required for any custodial investigation.

11. The testimony of prosecution witnesses is being recorded. As far as tampering of the evidence is concerned, the same seems to be an unfounded suspicion since most of the evidence is documentary in nature, which has already been seized by the prosecution and is beyond the reach of the applicant.

12. As regards influencing the witnesses, they are all officials of the prosecution and thus, it is an unfounded suspicion that she may try to reach out.

13. Not only the applicant has undergone inordinate incarceration since 08.05.2022 (3 years and 4 months) but even otherwise, given the snail's pace of the proceedings in the learned Trial Court, it may so happen that before the same concludes, the applicant may end up undergoing the entire sentence without being held guilty.

14. Be that as it may, trite as it may sound, until proved guilty the presumption is of the innocence, and therefore, giving benefit of the same, the applicant is entitled to be enlarged on bail, at this stage.



15. Accordingly, the applicant is directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court. In case the applicant is found involved in any repeat offence while on bail, the prosecution shall be at liberty to seek cancellation of the bail granted to the applicant in the present case vide instant order.

16. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same.

17. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

SEPTEMBER 16, 2025

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