

Durgesh @ Mangal vs State Of Gnct Delhi on 30 May, 2023

Author: Dinesh Kumar Sharma

Bench: Dinesh Kumar Sharma

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IN THE HIGH COURT OF DELHI AT NEW DELHI
BAIL APPLN. 1766/2023
DURGESH @ MANGAL

STATE OF GNCT DELHI

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA
OR

% 30.05.2023 CRL.M.A. 15194/2023 in BAIL APPLN. 1766/2023 This is an application for modification of the order to the extent that the appearance of Mr. Colin Gonsalves, learned senior counsel for the petitioner has not been marked.

Let the appearance be marked and the order dated 24.05.2023 be modified.

The order dated 24.05.2023 will be read as under:

DURGESH @ MANGAL

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The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 08/10/2023 at 04:21:52 versus STATE OF GNCT DELHI Respondent Through: Mr. Shubhi Gupta, APP for the State with SI Sandeep Yadav, PS Special Cell.

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CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

DINESH KUMAR SHARMA, J. (Oral)

1. The present bail application has been filed under Section 439 read with 436A and 482 of Cr.P.C. seeking regular bail in case FIR No. 63/2015 registered at PS Special Cell, New Delhi under Sections 21/29/61/85 of Narcotic Drugs and Psychotropic Substances Act, 1985. Chargesheet qua the petitioner was filed under sections 419/468/471/474 of IPC, under sections 18/21/22/29/61/85 of NDPS Act. The petitioner was charged for offences under sections 21 r/w 29 and 18/22 r/w 29 of NDPS Act vide order dated 17.03.2018.

2. Learned counsel for the petitioner submits that admittedly the petitioner is in custody since 18.11.2015. Learned counsel submits that the petitioner has been incarcerated for the last 7 years and 6 months in jail, without completion of the trial.

3. It has been submitted that in view of the judgement of the Hon'ble Supreme Court in Supreme Court Legal Aid Committee Representing Undertrial Prisoners vs. Union of India (1994) 6 SCC 731, the petitioner should be enlarged on bail. In the said judgement, it was inter alia held as under:

"15. ...We, therefore, direct as under:

...

(iii) Where the under trial accused is charged with an offence(s) under the Act punishable with minimum This is a digitally signed order.

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4. Learned counsel for the petitioner has further placed reliance on a recent decision of the Hon'ble Supreme Court in Mohd. Muslim Hussain vs. State (NCT of Delhi) Criminal Appeal No. 943 of 2023. Learned counsel submits that the petitioner having undergone over 7 years of incarceration is squarely covered by the aforesaid judgements. Learned Counsel submits that therefore, in light of the above judgements, the petitioner is entitled to be admitted on regular bail.

5. Issue notice.

6. Learned APP for the State has accepted the notice.

7. Learned APP submits that the facts in the instant case are serious in nature and therefore bail may not be granted.

8. I have considered the submissions. The verdict of the Hon'ble Supreme Court in "Supreme Court Legal Aid Committee representing Undertrial Prisoners Vs. Union of India" (Supra) has been followed by this Court in several cases, which includes judgement dated 21.03.2022 in Bail Appln. 1724/2021 titled Anil Kumar @ Nillu vs State; judgement dated 22.12.2022 in Bail Appln. 3638/2021 titled Anil Kumar vs. DRI; judgement dated 21.12.2021 in Bail Appln. 2477/2021 titled Atul Aggarwal vs. Directorate of Revenue Intelligence; judgement dated 31.05.2022 in Bail Appln. 3705 - 4187 of 2020 titled Ebera Nwanaforo and Frank Vitus vs. Narcotics Control Bureau; judgement dated 11.11.2022 in Bail Appln. 891/2022 titled Tasawwur Hussain @ Tasawwur vs. DRI; judgement dated 05.01.2023 in Bail Appln. 991/2022 titled Jumah Khan vs The State Govt. of NCT of Delhi. In the said judgements, this court has granted bail to the accused therein, in terms of the principles laid down in Supreme Court Legal Aid Committee (supra).

9. Without going into the merits of the case and taking into the account This is a digitally signed order.

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1. The petitioner shall cooperate and appear before the concerned IO as and when directed;
2. The petitioner shall not leave the city without prior permission of the court concerned;
3. The petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
4. The petitioner shall provide his/her mobile number (s) to the Investigating Officer and keep it operational at all times;
5. In case of change of residential address and/or mobile number, the petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.

10. In view of the above, the present bail application stands disposed of.

11. Order dasti."

In view of the above submissions, the application stands disposed of.

DINESH KUMAR SHARMA, J MAY 30, 2023/AR..

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