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

+ BAIL APPLN. 4298/2021

RAM BHAROSE

..... Petitioner

Through Mr. Raj Kumar, Advocate

versus

THE STATE

..... Respondent

Through Mr. Amit Chadha, APP for the State
with SI Arvind Kumar, Special
Staff/East Distt.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **06.12.2021**

CRL.M.A. 19496/2021 (Exemption)

Allowed, subject to all just exceptions.

BAIL APPLN. 4298/2021

1. The petitioner seeks bail in FIR No. 474/2021 dated 11.09.2021 registered at Police Station Mandawali Fazalpur for offences under Sections 21/25/29 of the NDPS Act.

2. Facts, in brief, leading to the present petition are as under:

- a) The instant FIR was registered on the statement of Head Constable Rajiv Malik wherein he stated that on 11.09.2021, at about 6:30 A.M., a secret informer came to the Police Station and gave information that a boy named Shakeel, who resides in Badaun, is engaged in the business of supplying smack in Delhi after procuring the same from Bareilly. He stated that the accused would come to South Ganesh Nagar, Mandawali to supply smack

to one Gulshan @ Kallu at about 8:00-9:00 A.M. The said information was narrated to Inspector Satendra Khari, Special Staff, who also questioned the secret informer. The information was reported to ACP, Operations, East District, who ordered for conducting a raid. The said information was entered in the daily register *vide* D.D.No.02 at 7:05 A.M. A raiding party was constituted. It is stated that when the raiding party reached Ganesh Nagar underpass. Some passersby were requested to join the raiding party but all of them refused to participate. It is stated that at 8:55 A.M., a TSR came from Mother Dairy, Mandawali side and stopped at Sai Packers and Movers. It is stated that a boy wearing black coloured T-shirt and blue coloured jeans came out of the TSR. It is stated that the secret informer identified him as Shakeel. It is stated that Shakeel was carrying a polythene bag in his hand and he was waiting for someone. It is stated that at about 9:00 A.M., one boy wearing Mehroon coloured T-shirt and green coloured short came there, who was identified as Gulshan @ Kallu by the secret informer. It is stated that Shakeel handed over the polythene packet to Gulshan @ Kallu and the said packet was kept by Gulshan @ Kallu in his right pocket. It is stated that on seeing the raiding party, Gulshan @ Kallu and Shakeel tried to escape but the Police over-powered them. Compliance under Section 50 of the NDPS Act was made and Gulshan @ Kallu and Shakeel were informed about their rights. Gulshan @ Kallu and Shakeel stated that they both are illiterate and want to be searched in front of a Gazetted officer or Magistrate. Search was conducted

before ACP. On being searched, a black coloured polythene was recovered from the pocket of Gulshan@Kallu containing 270 grams smack. On the said information FIR No. 474/2021 was registered at Police Station Mandawali Fazalpur for offences under Sections 21/25/29 of the NDPS Act.

- b) Further investigation revealed that Shakeel had come to Delhi several times and was involved in the sale of smack. Shakeel disclosed that he had procured smack from one Sakir and one Nushrat Khan. On 11.10.2021, Nushrat Khan was apprehended and he disclosed that he was involved in sale and purchase smack and used to purchase the same from Zahid, Kabil, Ram Bharose (the petitioner herein), Shakir Hussain and Pooran.
 - c) Apprehending arrest, the petitioner herein approached the Learned Sessions Court by filing an application for grant of anticipatory bail and the same was dismissed *vide* order dated 02.11.2021.
 - d) The petitioner has thereafter approached this Court by filing the instant petition.
3. Heard the parties and perused the material on record.
 4. The petitioner is an accused of an offence under Sections 21/25/29 of the NDPS Act. The investigation is at a nascent stage. The allegation against the petitioner is that he is the person who supplies drugs to the peddlers for distribution to consumers. The quantity involved in the present case is 270 Gms. of smack which is a commercial quantity.
 5. Grant or denial of bail for offences under the NDPS Act, when commercial quantity is recovered, is covered by Section 37 of the NDPS Act. Since the investigation is at a nascent stage it cannot be said, at this

juncture, that there are reasonable grounds for believing that the petitioner is not guilty of the offence.

6. It has also come on record that the petitioner is involved in another offence being FIR No.277/2018 registered at Police Station Crime Branch for offences under Sections 21/25/29 of the NDPS Act and, therefore, the petitioner is likely to commit another offence while on bail.

7. The effects of drugs on society have been enunciated in several judgments. It has been observed that organised activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances and illegal trafficking in such drugs and substances is resulting in drug addiction among a sizeable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years which has a deadly impact on the society as a whole (Gurdev Singh v. State of Punjab, (2021) 6 SCC 558).

8. In view of the above, this Court is not inclined to grant bail to the petitioner at this stage.

9. Accordingly, the petition is dismissed along with the pending application(s), if any.

SUBRAMONIUM PRASAD, J

DECEMBER 06, 2021

Rahul