

Bail Matters1628-2023  
STATE Vs. NIKHIL  
FIR No. 190/2023  
PS Alipur

22.07.2023

Pr: Ms. Promila Singh, Ld. Addl. PP for the State  
Sh. Aditya Aggarwal, Ld. Counsel for  
accused/applicant.

ASI Naresh on behalf of IO.

It is argued on behalf of applicant that draft charge sheet has been prepared by the IO and pending in prosecution branch for scrutiny and therefore, investigation is complete. It is also stated that the manner in which seizure of alleged contraband is done by the IO, is in violation of standing order No. 1/88 and accused is entitled to be released on bail in view of observation by Hon'ble Delhi High Court in case titled as **Laxman Thakur Vs. State Bail Appl. No. 3233/2022 decided on 14.12.2022.**

Ld. Counsel has also relied upon *Basant Rai Vs. State Criminal Appeal No. 909/05 decided on 02.07.2012*, *Ahmad Hassan Mohd. Vs. The Customs Bail appl. No. 3076/2020 decided on 11.02.2021*, *Charles Howell @ Abel Kom Vs. MCD CrI. A. 755/16 decided on 13.08.201*, *Gopal Dass Vs. NCB Bail Appl. No. 3491/2020 decided on 04.02.2021*, *Ram Bharose vs. State Bail No. 1623/2022 decided on 05.08.2022* to fortify his arguments.

On the other hand Ld. Addl. PP for the State has vehemently objected the application as the recovered quantity of the contraband is commercial in nature and applicant actively participated in the drug cartel. There is every likelihood that he

may commit similar offences, if he may be released on bail.

Submissions heard. Record perused.

It is a matter of record that after recovery of the contraband from co-accused Dharmender and applicant from Mahindra XUV 500 car, several bundles containing ganja were cut and homogenized. The said homogenized contraband was put into three separate kattas. The said procedure adopted by IO violates the standing order No. 1/88 and the case of the applicant is identical to the facts of Laxman Thakur Vs. State. While releasing the accused on bail, Hon'ble High Court further held that since the collection of sample itself was faulty, the rigours of section 37 of NDPS Act would not apply.

Considering the facts and circumstances of this case and the observation of Hon'ble High Court in Laxman Thakur's case (discussed supra), accused is admitted to bail on furnishing of bail bonds in the sum of Rs. 1,00,000/- with two sureties of the like amount to the satisfaction on the following conditions :

- i) That the applicant/accused will supply all his mobile number to the IO of the case;
- ii) That the mobile numbers should be always working for 24 hours and keeps google map on so that he can be traced at any time;
- iii) That he will not leave India without prior permission of the court;
- iv) That he will not commit any crime/offence or anti- social activity during the trial of the case;
- v) That he will not threaten the complainant or any other witness or tamper with the prosecution evidence;
- vi) That he will appear on each and every date of hearing before the court and ;
- vii) That there should not be any future involvement of the accused in any criminal case.

**Application stands disposed of.**

**A copy of this order be sent to the Jail Superintendent concerned for further communication to the accused/applicant. Copy of this order be also forwarded to Jail Superintendent concerned through E-Mail.**

(Dhirendra Rana)  
Special Judge (NDPS):  
North, Rohini Courts, Delhi  
22.07.2023