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

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**BAIL APPLN. 2635/2023 & CRL.M.A. 21157/2023**

**NITISH KUMAR**

..... Applicant

Through: Mr.Aditya Aggarwal, Ms.Kajol  
Garg, Mr.Naveen Panwar,  
Advs.

versus

**DIRECTORATE OF REVENUE INTELLIGENCE**

..... Respondent

Through: Mr.Satish Aggarwala, Senior  
Standing Counsel

**CORAM:**

**HON'BLE MR. JUSTICE NAVIN CHAWLA**

**ORDER**

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**20.05.2024**

**CRL.M.A. 21157/2023**

1. Allowed subject to all just exceptions.

**BAIL APPLN. 2635/2023**

2. This application has been filed under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') read with Section 36A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, 'NDPS Act') praying for the Applicant to be released on Bail in file No.DRI/HQ-GI/338/XVII/ENQ-01/INT-NIL/2022 registered at the Directorate of Revenue Intelligence ('DRI') under Sections 21/23/25 and 29 of the NDPS Act.

3. Briefly stated, it is the case of the prosecution that based on the specific information that some contraband goods might be concealed in a consignment imported vide Bill of Lading No. JEA/NSA/7065



dated 01.01.2022, with consignee details as 'M/s Good Life Global', declaring the same to contain 'Rock Salt Powder'. It is alleged that the officials of the respondent examined the four containers on 16.02.2022 and 17.02.2022. It is alleged that during the said examination of one of the containers, examined on 17.02.2022, two HDPE bags containing off-white yellowish colour substance having some pungent smell were found kept concealed in the third last rack inside the said container. It is alleged that the substance recovered from the said two HDPE bags was tested with the help of the field Drug Detection Kit, and it gave a positive result for the presence of 'Heroin'. It is alleged that the examination of said four containers has resulted in the recovery and seizure of 34.70 kg of Heroin.

4. It is stated that further investigation revealed that the Applicant is the proprietor of M/s Good Life Global, New Delhi. He was apprehended along with one Abdul Nasir, a co-accused. Statements of the Applicant and Abdul Nasir are stated to have been recorded.

5. The prosecution further alleges that M/s Lotus Darya Bandar Shipping Services Company Limited, Iran, on behalf of consignor-M/s Hamed Karimi, Iran booked one consignment in the name of shipper, M/s Hamed Karimi, Iran through one M/s RDS Shipping Company, Iran. It is alleged that as per the shipping instructions, the Bill of Lading showed the shipper as M/s Hamid Karini, Iran, and the consignee as Abetar Healthcare Pvt. Ltd. New Delhi; goods were declared as Rock salt powder. A pre-alert e-mail was sent by M/s RDS Shipping Company, Iran to M/s Bilander Logistics Pvt. Ltd., which further sent the same to the declared consignee, that is, M/s Abetar



Healthcare Pvt. Ltd.. It is stated that Mr.Lalit Singh, a Director of M/s Abetar Healthcare Pvt. Ltd, however, by the email dated 03.01.2022 informed M/s Bilander Logistics Pvt. Ltd that the said consignment was not in their knowledge and not even their purchase order.

6. It is alleged that the booking agent M/s Hamid Karini, by the email dated 02.01.2022, requested for a change of the name of the consignee to M/s Good Life Global, New Delhi. It is stated that on the said request, the Bill of Lading was changed eventually in the name of M/s Good Life Global, New Delhi.

7. The prosecution further alleges that, therefore, the Applicant is involved in the import of the contrabands and, applying the rigours of Section 37 of the NDPS Act, is not entitled to be released on Bail.

8. The learned counsel for the Applicant submits that the only allegation against the Applicant is that import has been eventually made in the name of M/s Good Life Global, which is stated to be the proprietorship concern of the Applicant. He submits that it is the case of the prosecution itself that earlier the consignment was in the name of M/s Good Life Global; it is only when Mr.Lalit Singh, Director of M/s Abetar Healthcare Pvt. Ltd., refused to accept the said consignment, that the Bill of Lading was changed to the name of M/s Good Life Global.

9. He submits that it is the case of the prosecution that thereafter co-accused- Abdul Nasir and Munir Ahmed approached the Applicant for the said import. He submits that the Applicant had a valid license for importing Rock Salt and, therefore, Applicant allowed the said co-accused to use the Import Licence without any knowledge or belief



that they have imported the contrabands by using the same.

10. He submits that the Applicant has also entered into a Memorandum of Agreement with Mr. Shafiullah Raihan for the import of Rock Salt under the consignment in question. He submits that the said Shafiullah Raihan has since been discharged from the case and the said Order has not been challenged so far by the prosecution.

11. He submits that, therefore, there is no material to charge the Applicant of the offence and the Applicant has met the standard of Section 37 of the NDPS Act. He submits that the applicant has no criminal antecedents and there is no likelihood of him being involved in the similar case.

12. On the other hand, the learned Standing Counsel for the respondent submits that in the present case, the consignment was in the name M/s Good Life Global, of which the Applicant is the proprietor. He submits that the Applicant, therefore, has been rightly charged also based on the statement of the co-accused. He submits that though eventually in the trial the said statements may not be relevant, at the stage of deciding an application for Bail filed by the Applicant these should be considered against the Applicant.

13. I have considered the submissions made by the learned counsels for the parties.

14. As is evident from the above, the Applicant is being charged only as the eventual consignment was in the name of M/s Good Life Global. As per prosecution itself, however, the earlier consignee was M/s Abetar Healthcare Pvt. Ltd., and it is only when one of the Directors of the said company refused to accept the consignment, that



the name of the consignee was changed to M/s Good Life Global.

15. As far as the statements of co-accused are concerned, in view of the judgment of the Supreme Court in *Toofan Singh v. State of Tamil Nadu*, (2021) 4 SCC 1, they cannot be used against the Applicant.

16. The Applicant is also not reported to have any criminal antecedents.

17. In my view, therefore, the Applicant has been able to make out a case to be released on Bail and has satisfied the test of Section 37 of the NDPS Act.

18. Keeping in view the abovementioned factors, it is directed that the Applicant be released on Bail in Case No.DRI/HQ-GI/338/XVII/ENQ-01/INT-NIL/2022 registered at the Directorate of Revenue Intelligence under Section 21/23/25 and 29 of the NDPS Act, subject to furnishing a personal bond in the sum of Rs.50,000/- with one local surety of the like amount to the satisfaction of the learned Trial Court, and further subject to the following conditions:

- i. The Applicant shall surrender his passport, if any, to the Court concerned and will not leave the country without the prior permission of the learned Trial Court.
- ii. The Applicant shall provide his permanent address to the learned Trial Court. The Applicant shall also intimate the Court, by way of an affidavit, and to the IO, regarding any change in his residential address.
- iii. The Applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The Applicant shall provide all/latest/fresh mobile numbers



to the IO concerned, which shall be kept by the Applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the learned Trial Court and the IO concerned.

- v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with any other of the prosecution witnesses or tamper with the evidence of the case while being released on bail. In case the Applicant is found involved in another case, it will be open to the prosecution to file an appropriate application seeking cancellation of his Bail in the present case as well.

19. Needless to state, any observation touching upon the merits of the case is purely for the purposes of deciding the question of grant of Bail and shall not be construed as an expression upon the merits of the matter.

20. The Bail Application is allowed in the above terms.

21. Copy of this Order be sent to the Jail Superintendent for information and necessary compliance.

**NAVIN CHAWLA, J**

**MAY 20, 2024/Arya/AS**

[Click here to check corrigendum, if any](#)