



2025:DHC:5220



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 03.07.2025

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BAIL APPLN. 36/2025

KHUJA AGHA SAFI

.....Petitioner

Through: Counsel for petitioner (appearance
not given)

versus

CUSTOMS

.....Respondent

Through: Ms. Simran Khorana, Advocate for
Customs**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case Complaint No. VIII(AP)(10)P, for offence under Sections 8/21/23/28 of NDPS Act, registered at Customs.
2. Broadly speaking, the contraband allegedly recovered from the accused/applicant was 344 grams of heroin. The accused/applicant is a foreigner whose Visa and Passport have already expired. The contraband allegedly recovered from the accused/applicant being admittedly a commercial quantity, the rigours of Section 37 of NDPS Act come into play.
3. On last date, learned counsel for accused/applicant submitted that on ground of delay in trial, the accused/applicant deserves to be released on



bail, as he is in jail since three years nine months. In response, learned counsel for respondent submitted that the delay in trial is only on one of the grounds but it cannot make Section 37 NDPS Act redundant.

4. In order to examine as to if there is any delay in trial, digitized record of trial court was requisitioned, which has now been received and perused.

5. Going by the trial court record, I am unable to find it to be a case of delay in trial. Most of the dates of hearings were exhausted by the accused/applicant by initially moving an application under Section 207 CrPC, followed by application for translated documents, followed by appointment of interpreter, in addition to multiple bail applications filed and withdrawn successively before the trial court. It appears from the trial court record that few days before the date fixed for trial, the accused/applicant would move a bail application and request the same to be taken up on the date already fixed. Despite that, on some of the dates of hearing, some witnesses of prosecution were examined by the trial court.

6. On being taken through the above mentioned record of the trial court, learned counsel for accused/applicant submits that lastly, a witness was examined before the trial court on 24.08.2024, after which no witness has been examined.

6.1 This submission is not wrong. But it is reflected from the trial court record that on 24.08.2024, the trial was adjourned to 20.11.2024 for further evidence of prosecution but on 24.10.2024, the accused/applicant filed yet another bail application, which was posted for 06.11.2024 by the trial court;



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on 06.11.2024, another bail application was received by the trial court from jail and counsel for accused/applicant prayed that both bail applications be listed on 20.11.2024, which request was accepted; but on 20.11.2024, the learned trial judge being on training, the matter was adjourned to 22.01.2025. In the meanwhile, on 29.11.2024, counsel for accused/applicant moved yet another bail application and the same was posted for 10.12.2024 after supplying copy to the Customs. On 10.12.2024, after addressing partly, counsel for accused/applicant withdrew the bail applications, so the matter was posted for the date already fixed i.e. 22.01.2025. But again, on 12.12.2024, yet another bail application was filed on behalf of the accused/applicant and the same was posted for consideration by the trial court on 13.12.2024. On 13.12.2024, copy of that bail application was supplied to Customs and the matter was listed for arguments on 20.12.2024. On 20.12.2024, the bail application was dismissed. Thereafter, on 22.01.2025, the date fixed for trial, one witness was present but had to be discharged unexamined because due to non-availability of force on account of Republic Day arrangements, the accused/applicant could not be produced from jail, so the matter was adjourned to 04.04.2025 and 05.04.2025. On 04.04.2025 and 05.04.2025, the matter had to be adjourned as case property was not summoned. On the next date 17.04.2025, due to fault of the Ahlmad summons were not issued to the witnesses and matter was adjourned to 30.04.2025, followed by 04.06.2025 and 08.08.2025, copies of which orders have not been received from trial court.



7. In view of the above narration of trial court record, I am not able to find it a case of any delay in trial, which would entitle the accused/applicant to bail, ignoring the rigours of Section 37 NDPS Act. Rather, it appears that it is the accused/applicant who has been deliberately protracting the proceedings in order to fabricate a ground of prolonged incarceration to seek bail.

8. There is nothing on record to satisfy this Court that there are reasonable grounds for believing that the accused/applicant is not guilty of the offence alleged against him or that he is not likely to commit offence while on bail.

9. Therefore, the bail application is dismissed.

10. Copy of this order be sent to the concerned Jail Superintendent immediately for being conveyed to the accused/applicant.

**GIRISH KATHPALIA
(JUDGE)**

JULY 3, 2025
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