



2025:DHC:2915



\$~58

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

%

Date of Decision: 25.04.2025

+ **BAIL APPLN. 1220/2025**

VIJAY KUMAR

.....Petitioner

Through: Mr. Aditya Aggarwal, Advocate.

versus

STATE NCT OF DELHI

.....Respondent

Through: Ms. Manjeet Arya, APP for State with
Inspector Jeetendra Tiwari and SI
Akashdeep.

CORAM: JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)

1. In furtherance of last order, learned prosecutor has shown me the videography of the search carried out at the residence of the accused/applicant and *prima facie*, the same does not reflect any portion to suspect the genuineness of the raid, though this has to be tested during trial.
2. I have heard the further arguments from both sides.
3. The accused/applicant seeks anticipatory bail in case FIR No. 79/2025 of PS Bharat Nagar for offence under Section 21/25 NDPS Act on the allegations that from residence of the accused/applicant and his son, 201 grams + 164 grams of heroin was recovered and son of the



2025:DHC:2915



accused/applicant was arrested. The accused/applicant was not present at the time of raid, so now he seeks anticipatory bail.

4. On behalf of accused/applicant it is argued that the FIR has been registered as an act of vendetta because daughter of the accused/applicant had lodged a complaint of harassment against a local police constable. It is further submitted by learned counsel for accused/applicant that presently apart from the statement of son of the accused/applicant, whereby he alleged that it is the accused/applicant only who knows the source of the contraband, there is no other material. Learned counsel for accused/applicant also refers to the status report filed by the local police to submit that PS Bharat Nagar had registered three more cases against the accused/applicant, out of which in one the proceedings were quashed and in one he was discharged and in one he was released. Learned counsel for accused/applicant also contends that recovery proceedings are not sustainable in the eyes of law because no public witness from the locality was joined.

5. On the other hand, learned prosecutor explains that since the neighbourhood of the accused/applicant consists of his extended family and also because entire family of the accused/applicant is involved in multiple criminal cases, the local residents would not agree to join the recovery proceedings. Learned APP has also taken me through the remaining seven cases against the accused/applicant, registered by police stations other than PS Bharat Nagar and he points out that in one of the cases, the



2025:DHC:2915



accused/applicant already stands convicted for offence under Section 20 NDPS Act. Learned prosecutor contends that custodial interrogation of the accused/applicant is required in order to unearth the trail of contraband and money since the accused/applicant is not even producing his mobile phone.

6. As mentioned above, the accused/applicant seeking anticipatory bail in this case for offence under Section 21/25 NDPS Act for being found in possession of large commercial quantity of heroin, already stands convicted in another similar case under Section 20 NDPS Act. There is one more case, being FIR No. 121/2022 of PS Crime Branch under Section 21/25 of the NDPS Act, which is pending trial against the accused/applicant.

7. So far as failure to join public witness in the raid is concerned, it is explained by prosecution side that the entire family of the accused/applicant is involved in multiple criminal cases and the neighbourhood of the residence of the accused/applicant consists of his extended family, so nobody would agree to join the raid in such cases. This would be a matter of trial and cannot be the reason to grant anticipatory bail. When raids of such kind are conducted, the investigating officer cannot be expected to keep requesting public persons to join the raid at the risk of letting the offender slip away. In such circumstances, the investigator cannot be expected to leave the actual offender and the offence aside in order to serve notice on the public witnesses refusing to join the raid.



2025:DHC:2915



8. As regards the FIR being an act of vendetta, the alleged harassment of the daughter of the accused/applicant occurred almost ten months prior to the alleged raid. The alleged harassment complaint is dated 10.06.2024 while the alleged raid took place on 15.02.2025.

9. As regards the evidentiary value of the disclosure statement of son of the accused/applicant, for present purposes the significance of that statement is that according to him it is only the accused/applicant who knows about the source from where the contraband was procured and the trail of money transaction. For that purpose, the requirement of Investigating Officer to carry out custodial interrogation cannot be ignored.

10. Considering the above circumstance, I do not find it a fit case to grant anticipatory bail. The application is dismissed.

**GIRISH KATHPALIA
(JUDGE)**

APRIL 25, 2025/DR