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

+ **BAIL APPLN. 2698/2019**

KANAN SARKAR @ RATNA

..... Petitioner

Through: **Mr. Amartya Singh, Advocate**

versus

STATE

..... Respondent

Through: **Mr. Raghuvinder Verma, APP
with SI Ramkishan, Stars II
Crime**

CORAM:

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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27.11.2019

1. This order shall dispose of the present application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail in the FIR No.76/2017, under Sections 20/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, ("NDPS Act") Police Station: Crime Branch, Delhi.

2. Briefly stated the facts of the present case as per the status report are that, on 24.05.2017, a secret information was received by ASI Murlidhar, that one lady namely Kanan Sarkar @ Ratna alongwith her associate namely Rajeev Majumdar will come to New Delhi Railway Station, Ajmeri Gate side in Dibrugarh Rajdhani train at 2:00 PM and will go to Tuglakabad for supply of ganja consignment.

3. Pursuant to the above information, a raid was conducted, and at about 3 PM one lady namely Kanan Sarkar @ Ratna and one boy namely Rajeev Majumdar were apprehended. A notice under Section 50 of the NDPS Act was served upon the petitioner and the co-accused.
4. After the service of notice, a search was conducted, whereupon a total of 35 kgs of Ganja was recovered from the petitioner and a total of 40 kg of Ganja was recovered from the co-accused.
5. Learned App submitted that the total Ganja recovered from the petitioner is a commercial quantity and embargo of Section 37 NDPS Act is applicable.
6. The learned counsel for the petitioner submitted that the discrepancies in the evidence of the witnesses of the prosecution shall result in the acquittal of the petitioner. However, learned counsel for the petitioner is also not able to satisfy this court as to why embargo of Section 37 NDPS Act is not applicable.
7. Learned counsel for the petitioner further submitted that the petitioner has been in the judicial custody for the last 2½ years.
8. In the detailed judgment, in the matter of *Anil Sharma vs. The State* in **Bail Appn.127/2019** decided on 08.11.2019, this Court held as under:-

“It is mandatory under Section 37 of the NDPS Act that before the petitioner is held to be released on bail, the Court has to satisfy itself that there are reasonable grounds for believing that the petitioner is not guilty of such offence and that he is not likely to commit any

offence, while on bail, again. However, *prima-facie*, in view of the material available, there is nothing on the record to satisfy this Court that there are reasonable grounds for believing that the petitioner is not guilty of such an offence and that he is not likely to commit the offence again, while on bail.”

9. Taking into consideration the nature, the gravity of the offence and the role of the accused as well as the fact that there is nothing on record to satisfy this Court, at this stage, that there are grounds or more to say reasonable grounds for believing that the petitioner is not guilty of such an offence and she is also not likely to commit the offence again while on bail, hence, this Court does not find any merit in the bail application of the petitioner and the same is, accordingly, dismissed.

CHANDER SHEKHAR, J

NOVEMBER 27, 2019

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