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

% *Order pronounced on 26.07.2022*

+ BAIL APPLN. 627/2022

PARVEEN Petitioner

Through: Mr. Sunil Tiwari, Adv.

versus

THE STATE NCT OF DELHI Respondent

Through: Mr. N.S. Bajwa, APP for State.

CORAM:

HON'BLE MR. JUSTICE TALWANT SINGH

Talwant Singh, J.:

1. This is a first regular bail application of petitioner Parveen in case FIR No. 197/2020 under Sections 21/29/61/85 NDPS Act of PS Crime Branch.

1.1 She is stated to be in JC since 17.12.2020. It has been further submitted that FIR was registered on the complaint of complainant namely SI Arvind Kumar, police station Narcotic Cell/Crime Branch on receipt of secret information from the secret informer on 17.12.2020 at about 4.00 p.m. that one person namely Pappu, who is living at Old Delhi Railway Station, who used to supply the smack in bulk quantity in Delhi and NCR, would supply the smack in large quantity at Rama Road, Moti Nagar, Delhi at about 6.00 or 6.30 p.m.. This information was conveyed to SHO Manohar Singh at 4.15 p.m., and it was further conveyed to the ACP/Narcotics Cell Sanjeev Kumar at 4.30 p.m. on which ACP/Narcotic had directed to conduct the raid. A raid party was formed, which left for the spot along with the



secret informer. Raiding party reached at the spot at 6.30 p.m. 4-5 persons were asked to join the investigation but they refused to join. One person was found coming from the side of Pahwa Hyundai Motor Road and he stood on the footpath opposite to the transformer and he was waiting for someone there. After 4-5 minutes one lady from the railway line side, who was carrying a black colour polythene in her right hand, stopped near the person who was standing near the transformer.

1.2 After talking to each other for some time, the said Pappu gave one polythene packet to the said lady and the lady handed over a black colour polythene to him and when both were leaving, they were apprehended/overpowered by the members of the raiding party. Again 4-5 persons were asked to join the proceedings but they refused to do so. The name of the apprehended person was revealed as Gulbabu @ Pappu and the name of the lady was revealed as Parveen.

1.3 ACP Narcotic Cell was briefed. IO briefed Gulbabu @ Pappu about his legal rights to be searched before any gazetted officer/Magistrate. Notice under Section 50 of NDPS Act was prepared in this regard. Gulbabu @ Pappu refused to call any Magistrate and Gazetted Officer on the spot. Similarly, Parveen was informed about her legal rights and notice under Section 50 NDPS was prepared and she refused to call any Magistrate or Gazetted Officer at the spot. ACP arrived at the spot at about 9.30 p.m. and he made enquiries from both the persons and after satisfying himself, he directed the IO to carry out the search of both the persons in his presence. A lady constable conducted the search of the present applicant and there was recovery of transparent polythene from the right hand of the present applicant, in which powder of brown colour was kept.



1.4 On testing the same, it was found to be heroin and the weight of the same was found to be of 150 gms. Similarly, search of Gulbabu @ Pappu was conducted and a polythene was recovered from his hand in which there were four bundles of Rs. 500/- denomination notes and one bundle of Rs. 100/- denomination notes, the total currency recovered comes to Rs. 2,20,000/- and the same was seized.

1.5 On the basis of the above, the present FIR was registered; charge-sheet was filed in Court; the interim bail moved by the petitioner was allowed on the ground that the daughter of the present petitioner was pregnant and there was nobody to look after her; the accused surrendered after the expiry of the interim bail and then moved an application for regular bail, which was dismissed on 07.01.2022. Hence the present petition has been filed.

1.6 The petitioner has prayed for regular bail on the ground that she is innocent; she has been falsely implicated; the recovery is much below the commercial quantity, so the provisions of Section 37 NDPS Act are not attracted in the present case; Co-accused Gulbabu @ Pappu has already been released by a coordinate bench of this Court on 01.06.2021; no public witnesses was joined at the time of alleged recovery; the petitioner has clean past antecedents; she is permanent resident of India having her roots in the society and there is no apprehension of her absconding or misusing the bail.

2. Notice was issued. Status report has been filed in which the facts as narrated above, have been repeated. It has been further submitted that two mobile phones were recovered from Gulbabu @ Pappu and one mobile phone was recovered from the petitioner. On the basis of CDRs of the mobile phones, both the accused persons were found well-connected and



they were found present on the spot at about 8 p.m. on 17.12.2020; four calls were exchanged between 5.25 to 7.34 p.m.; charge-sheet stands filed; charges have been framed and the matter is pending for prosecution evidence and the source of recovered contraband, namely Jamal @ Maqbook has been declared as Proclaimed Offender (PO).

2.1 The petitioner was granted interim bail by the Hon'ble Court and was extended from time to time. The petitioner/applicant had indulged in the same crime during interim bail period and case FIR No. 381/2021 dated 01.07.2021 under Section 21 NDPS Act was registered. In that case, 69 gms heroin was recovered from her possession. It has been further submitted that since the petitioner/accused had misused the interim bail, hence her bail application was dismissed by the learned Trial Court. Grant of bail has been strongly opposed by the State on the ground that she may indulge in same crime.

3. Arguments have been heard. The petitioner is in custody since her arrest on 17.12.2020; recovery of contraband of 150 gms of heroin was recovered from the possession of the present accused/applicant; both the accused have been well-connected to each other through mobile phone calls; co-accused Gulbabu @ Pappu had supplied 150 gms of heroin to the present petitioner. It has been stated by the petitioner that co-accused has already been granted bail. Copy of the bail order has been also placed on record. The said bail was granted in the peculiar facts related to the co-accused regarding the manner in which information was given to his family members about arrest of the said accused.

3.1. The present petitioner cannot claim parity with her co-accused as she had misused the liberty granted to her during interim bail period and she has



indulged in the same crime again and 69 gms of heroin was recovered from her possession during the period when she was on interim bail and the FIR No. 381/2021 dated 01.07.2021 under Section 21 NDPS Act, PS Moti Nagar Delhi was registered. The apprehension on behalf of the State that if she is released on bail, she may indulge in the same crime, is well founded on the basis of the above-mentioned FIR, which was registered during the period when she was on interim bail.

4. Keeping this fact in view, this Court is not inclined to grant bail to the present accused.

5. The Bail application is dismissed.

TALWANT SINGH, J

JULY 26, 2022

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