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

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Reserved on: September 04, 2023**Decided on: September 06, 2023**+ **BAIL APPLN. 2442/2023****ANJALI****..... Petitioner****Through: Mr. Suraj Prakash Sharma,
Advocate.****V****STATE (GNCT DELHI)****..... Respondent****Through: Mr. Utkarsh, APP for the
State.****CORAM****HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN****J U D G M E N T**

1. The present bail application is filed on behalf of the petitioner/applicant under section 439 Cr.P.C. for grant of regular bail in FIR bearing no. 0518/2023 registered at P.S. Shahbad Dairy, Delhi under section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as “NDPS Act”).
2. The perusal of FIR bearing no.0518/2023 dated 15.05.2023 registered under section 20 of NDPS Act reflects that HC Vinod Kumar on receipt of secret information on 15.05.2023 at around



11:30 A.M., apprehended the petitioner/applicant Anjali, resident of House no. B-137, Amar Jyoti Colony, Shahbad, Daulatpur, Delhi, who was stated to be indulged in the supply of ganja in Delhi, when she came outside her house at around 01:20 P.M. to deliver ganja to someone. The secret information was reduced to writing for compliance of section 42 of NDPS Act and thereafter a raiding party was prepared on the direction of senior officers. The raiding party proceeded towards the informed place alongwith necessary equipments and the secret informer and reached there at around 01:10 P.M. In spite of request, the public persons refused to join raiding party after citing their difficulties. At about 01:19 P.M., one woman came outside the informed place i.e. House no. B-137, Amar Jyoti Colony, Shahbad, Daulatpur, Delhi and was standing near the gate of the abovementioned house carrying an orange coloured plastic bag in her hand. She was identified by the informer as Anjali i.e. the petitioner/applicant. The raiding party apprehended her. Notice under section 50 of NDPS Act was also given to her. The petitioner/applicant was found in possession of 2.700 kilograms of ganja.



3. The petitioner/applicant filed a bail application before the Sessions Court bearing Bail Regn. no. 1675/2023 which was dismissed vide order dated 18.07.2023 passed by the court of Sh. Dhirendra Rana, ASJ/Special Judge (NDPS), North, Rohini Courts, Delhi.

4. The counsel appearing on behalf of the petitioner/applicant argued that the petitioner/applicant is in judicial custody since 15.05.2023 and after conclusion of investigation, the chargesheet has already been filed. He further argued that the contraband was planted on the petitioner/applicant and the quantity of ganja recovered from the petitioner/applicant is 2.700 kg which is an 'intermediate quantity' i.e. more than small quantity but less than commercial quantity. The counsel for the petitioner/applicant seeks the grant of regular bail to the petitioner/applicant on the ground that the rigour of section 37 of NDPS Act is not applicable in cases where the quantity of contraband recovered is an intermediate quantity. The counsel appearing on behalf of the petitioner/applicant cited the order dated 20.07.2022 passed by Coordinate Bench of this Court in Bail Application no. 1538/2022 titled as **Anita V State (NCT of Delhi)**



wherein it was observed as under:-

5. In the present case, the recovery made from the applicant is 50 grams of Heroine from the cupboard of her house. The applicant has been in custody since 25.06.2021.

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7. Since only 50 grams of Heroine was recovered from the petitioner, the same comes within the 'intermediate' quantity and the rigours of Section 37 of the NDPS Act is not applicable to the facts of the present case.

8. The applicant is a permanent resident of Delhi, namely, H. No. E-1681-1682, JJ Colony, Bawana, Delhi-110039.

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10. For the aforesaid reasons, I am inclined to enlarge the applicant on bail...

5. The Additional Public Prosecutor appearing on behalf of the respondent/State argued that in view of the facts and circumstances of the case, the petitioner/applicant is not entitled to be released on bail. He cited the judgment dated 24.01.2020 passed by the Supreme Court in Criminal Appeal Nos.154-157/2020 [arising out of SLP (Crl.) Nos.7309-7312/2019] titled as **State of Kerala etc. V Rajesh etc.**

6. The Coordinate Benches of this Court have considered the issue regarding grant of bail in cases of possession of intermediate quantity of contraband. In **Sunil V The State of NCT of Delhi**, Bail Application no. 495/2022 decided on 28.07.2022, it was observed as under:-



Without any observations on the merits or demerits of the trial that is in progress, taking into account the factum that the recovery from the applicant is stated to be only of 8 gms of heroin falling within the ambit of an intermediate quantity with no previous adverse antecedents against the applicant, the applicant is allowed to be released on bail...

6.1 In Rehmatullah @ Arman V State of Delhi, Bail Application

no. 2866/2022 decided on 24.11.2022, it was observed as under:-

Taking into account the factum that the allegations against the petitioner relate to the alleged recovery of an intermediate quantity of Ganja, to which the parameters of Section 37 of the NDPS Act, 1985 are not applicable and there being no previous adverse antecedents against the applicant, the applicant is allowed to be released on bail...

6.2 In Narsimman V State (Govt. of NCT of Delhi), Bail

Application no.3863/2022 decided on 09.02.2023, it was observed as under:-

5. In the instant case, 1.730 kg ‘Gaanja’ which was recovered from the petitioner is within the intermediate quantity, therefore, the rigors of Section 37 NDPS Act do not apply to the present case. Furthermore, all the witnesses are police officials.

6. Keeping in view the entire circumstances of the case and the fact that petitioner is in judicial custody since 25.09.2022, the petition is allowed. Accordingly, petitioner is admitted to bail...

6.3 In Gajender Bahadur V The State Govt of NCT of Delhi,

Bail Application no. 3655/2022 decided on 31.01.2023, it was observed as under:-



6. These are issues which can only be adjudicated after evidence. For the time being, the quantity alleged to be recovered from the applicant is at best 1170 grams of Ganja which is an intermediate quantity. The applicant has been in custody since 09.10.2020, charge-sheet already has been filed and no custodial interrogation of the applicant is required. As regards the other two cases against the applicant under the NDPS Act are concerned, the applicant has already been granted bail by the competent Courts of jurisdiction. The trial is not likely to conclude in near future and the continued incarceration of the applicant will not serve any purpose.

7. For the aforesaid reasons, the applicant is directed to be released on bail in FIR No. 473/2020 dated 07.10 2020, under Section 20 of the NDPS Act, registered at Police Station- Shastri Park...

7. The petitioner/applicant is in judicial custody since 15.05.2023. The investigation has been concluded and the charge-sheet has already been filed. The petitioner/applicant was found in possession of 2.700 kg of ganja which is an intermediate quantity. In view of the facts and circumstances of the present case, the petitioner/applicant Anjali is admitted to bail on his furnishing a personal bond in the sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties of the like amount to the satisfaction of the concerned Trial Court with directions to the petitioner/applicant to the effect that:

i) she shall not leave the country under any circumstances;



- ii) she shall appear before the learned Trial Court as and when directed by the learned Trial Court;
- iii) she shall keep his mobile phone operational and reachable at all times;
- iv) she shall not tamper with the evidence or try to influence or threaten the witness.

8. The present bail application along with pending applications, if any, stands disposed of.

DR. SUDHIR KUMAR JAIN
(JUDGE)

SEPTEMBER 06, 2023

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