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

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Decided on: 23.01.2024+ **BAIL APPLN. 252/2024**

MEENA

..... Petitioner

Through: Mr. Vimal Puggal, Advocate

versus

THE STATE

..... Respondent

Through: Mr. Amol Sinha, ASC for the
State with ASI Sukhvir Singh.**CORAM:****HON'BLE MS. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****SWARANA KANTA SHARMA, J. (ORAL)**

1. The present application under Section 438 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed on behalf of the applicant seeking grant of anticipatory bail in case FIR No. 785/2023, registered at Police Station Jahangir Puri, Delhi, for offences punishable under Sections 20/61/85 of the Narcotics Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

2. The facts of the present case are that on 28.12.2023, a secret information was received by ASI, Narcotic Squad that one person namely Nagendra, who was a resident of Bihar, was supplying *ganja* from his tenanted premises at H-1, Jahangir Puri, Delhi, and the same could be recovered from his place if a raid is conducted. On receipt of this information and on instructions from senior police officials, a



raiding team was constituted. On 28.12.2023, at about 5:10 PM, the raiding team had reached the aforesaid premises and the secret informer had pointed out towards room situated at first floor of H-1/396 and had told that the co-accused Nagendra had been staying and supplying *ganja* from the said room. During the course of carrying out raid, one person namely Ram Lakhan, i.e. owner of the house, had joined the raiding party and had told that Nagendra was his tenant and he had been living in one room at the first floor of the house. With his help, the raiding team had got the room unlocked and one person wearing pink shirt and black pant had come out, who was identified as Nagendra by the owner of the house. Thereafter, notice under Section 50 of NDPS Act was prepared and served upon him. Nagendra also revealed that he had been arrested in NDPS cases previously. Upon conducting search of the room, the raiding team had recovered one white coloured bag, which was found containing *ganja*, which upon weighing, was found to be 30.300 kg. Thereafter, co-accused Nagendra was arrested and the present FIR was registered. During the course of investigation, Nagendra had disclosed that he had supplied to *ganja* to Meena i.e. present accused/applicant on several occasions in past.

3. Learned counsel for the applicant argues that applicant is a women aged about 40 years and further that she is a daily wage earner and is working as *safai karamchhari* in a boys primary school and she is not involved in any criminal activity. It is further stated that applicant is living in very small premises, measuring about 30 sq. Yards, and the police has already searched her premises in her



absence and nothing incriminating was found against her. It is also argued that she has been roped in the present case only on the basis of disclosure statement made by the co-accused Nagendra Roy. It is also stated that the Call Detail Records reveal the false implication of the applicant which is apparent since despite there being no recovery and only a disclosure statement of the co-accused, the present accused has been implicated in the present case and she is now apprehending arrest. Therefore, it is prayed that applicant be granted pre-arrest bail.

4. Learned ASC appearing on behalf of the State, on the other hand, has drawn this Court's attention to the status report filed before the learned Sessions Court. It is argued that the Call Detail Records in this case would reveal the connection between the co-accused and the present accused/applicant and that it is sufficiently proved from the record that the applicant was in contact with co-accused and had received drugs from co-accused on several occasions. It is also stated that present case involves recovery of commercial quantity of *ganja*. It is submitted that applicant has not joined investigation and her custodial interrogation will be necessary, and therefore, the bail application be rejected.

5. This Court has heard arguments addressed by learned counsel for the applicant as well as learned ASC for the State, and has gone through the case file.

6. In the present case, as per prosecution, co-accused Nagendra, pursuant to his arrest, had disclosed that he had supplied narcotic drugs to the present accused/applicant on many occasions in past and



had also provided her mobile number. He had also pointed out the house of the present applicant in Indira Vihar, Tilak Nagar. The I.O. in this case had also recovered two receipts from the house of co-accused Nagendra in which the account details *qua* the applicant were mentioned. The said receipts were seized and taken as record.

7. It was primarily argued on behalf of applicant that she was being implicated in this case solely on the basis of a disclosure statement of co-accused and thus, she ought to be granted the benefit of anticipatory bail. To the contrary, learned ASC had brought this Court's attention towards judgment of Hon'ble Apex Court in case of *State of Haryana v. Samarth Kumar* 2022 SCC OnLine SC 2087 to argue that this cannot be a ground to secure anticipatory bail in a case under NDPS Act.

8. This Court notes that in the case of *Samarth Kumar (supra)*, while expressing that the accused may be entitled to take benefit of decision in case of *Tofan Singh v. State of Tamil Nadu* (2021) 4 SCC 1 at the time of hearing of regular bail applications or during the course of trial, the Hon'ble Apex Court had set aside the orders granting pre-arrest bails to the accused persons therein, in a case under Sections 17/27A/85 of NDPS Act, which was granted on the premise that accused were being implicated solely on the basis of disclosure statement of main accused.

9. Be that as it may, though the learned counsel for the applicant had argued that the present accused was only sought to be arrested on the basis of disclosure statement, the evidence that has emerged from the investigation till date including the Call Detail Records reflects to



the contrary and reveals that applicant herein was in constant touch with the co-accused Nagendra Roy, from whom recovery of commercial quantity of narcotic drugs i.e. 30.30 kg of *ganja* was affected. The I.O. had also seized a mobile phone from the co-accused Nagendra Roy.

10. The present case involves recovery of commercial quantity of *ganja* from co-accused. The disclosure statement of the co-accused, the receipts seized from his house containing account details of applicant and the Call Detail Records, *prima facie*, reflect towards the involvement of the applicant in the larger trade of narcotic drugs. It is not disputed that the applicant herein has not joined investigation despite being served thrice by the Investigating Officer, as informed to this Court by the State.

11. Considering the aforesaid facts and circumstances, the custodial investigation of the present applicant will be required for the purpose of unearthing the conspiracy between the accused persons.

12. In view thereof, no ground for grant of anticipatory bail is made out.

13. Accordingly, the present application stands dismissed.

14. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

15. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 23, 2024/at