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

+ **BAIL APPLN. 527/2024**

YOONIS@YUNUS

..... Petitioner

Through: Mr. Vikas Arora, Mr. Piyush Kumar,
Mr. Abhay Sachan & Ms. Radhika
Arora, Advocates.

versus

STATE THROUGH SHO PS H NIZAMUDDIN

..... Respondent

Through: Mr. Amit Ahlawat, APP for the State
with SI Nagendra Kumar, ANC/SED.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

22.02.2024

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1. The present application under Section 439 of the CrPC seeks regular bail in case FIR No. 181/2023 under Sections 20/61/85 of the NDPS Act, registered at PS Hazrat Nizamuddin.
2. The case of the prosecution, as per the status report dated 24.01.2024 authored by Sh. Vishnu Dutt, Inspector, Anti Narcotics Cell, South-East, Delhi, is that on 19.06.2023, acting on secret information, one Soyeb @ Mangla was apprehended and 1100 grams of *ganja* was recovered from him. Accordingly, the present FIR was registered on 19.06.2023 under Section 20 of the NDPS Act. Thereafter, on 06.07.2023, during the course of



investigation, the aforesaid Soyeb @ Mangla, disclosed that he had procured the recovered contraband from one Reena. Co-accused Reena was arrested on 23.11.2023 and while in police custody, she disclosed that she used to buy *ganja* from one person near the railway line. On 28.11.2023, the co-accused Reena was remanded to judicial custody and she further disclosed that she used to procure contraband from one Yoonis @ Yunus, i.e, the applicant. The applicant was subsequently arrested and stated that he purchased contraband from a GRP official, Sunil. Subsequently, said Sunil was examined and he denied the allegations made by the co-accused Reena and the applicant, asserting that they were falsely implicating him.

3. Learned counsel for the applicant submits that the latter has been falsely implicated in the present case. It is submitted that the applicant has been arrested only on the basis of disclosure of co-accused Reena. It is further submitted that no recovery has been effected from the applicant. It is submitted that the prosecution has not placed any material on record to link the applicant with the commission of the alleged offence. Learned counsel for the applicant submits that the latter has been in custody since 07.12.2023 and no useful purpose will be served by keeping him in custody any further.

4. *Per contra*, learned APP for the State submits that the applicant, in his own disclosure statement, has admitted to procuring the contraband from one Sunil. It is submitted that the applicant and co-accused Reena were in touch with each other over mobile. It is submitted that the applicant is involved in 05 other cases.

5. Heard learned counsel for the parties and perused the record.

6. The case of the prosecution, *qua* the applicant is based on the disclosure statement made by co-accused Reena. It is an admitted position



that no recovery has been effected from the applicant. Apart from the connectivity with co-accused by way of CDR analysis, no incriminating material has been placed on record, such as transcripts of the calls allegedly exchanged between the applicant and co-accused. Be that as it may, the quantity recovered in the present case is 1100 grams of *ganja*, which is an intermediate quantity and thus, the twin conditions of Section 37 of the NDPS Act will not be applicable.

7. The investigation in the present case is complete, the chargesheet and supplementary chargesheet stand filed. Nominal roll dated 20.02.2024 reflects that the applicant has been in custody for 02 months and 14 days, since 07.12.2023.

8. In totality of the facts and circumstances of the case, the present application is allowed. The applicant is directed to be released on bail on her furnishing a personal bond in the sum of Rs. 25,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court/Link Court, further subject to the following conditions:

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.
- v. The applicant shall not, directly or indirectly, tamper with



evidence or try to influence the witness in any manner.

9. The application is allowed and disposed of accordingly
10. Pending applications, if any, also stand disposed of.
11. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.
12. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
13. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

FEBRUARY 22, 2024/