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

+ **BAIL APPLN. 2002/2024**

REENA

..... Petitioner

Through: Mr. Kundan Kumar and Mr. Saurabh
Srivastava, Advocates

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Ms. Richa Dhawan, APP for State.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **31.05.2024**

CRL.M.A. 17838/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This application has been preferred on behalf of the applicant under Section 439 Cr.P.C. seeking regular bail in case FIR No.121/2023 dated 21.05.2023 under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act') registered at PS: Crime Branch. Subsequently, Section 29 of NDPS Act and Section 78 of Juvenile Justice (Care and Protection of Children) Act, 2015 were added in the Charge Sheet.
4. Arguing for applicant, learned counsel submits that there is violation of Section 50 of NDPS Act inasmuch as even as per the case of the prosecution, search of the applicant was done in the presence of all the



raiding team members which comprised of male members, overlooking the fact that she is a woman. It is urged that applicant is in custody for the last one year and cannot be kept in incarceration indefinitely.

5. Learned APP appearing on behalf of the State refutes the submission that applicant was searched in the presence of members of raiding party and hands over the Case Diary, containing the statement of the applicant on being put to notice under Section 50 of NDPS Act and the Search Memo dated 21.05.2023, wherein it is mentioned that considering that the applicant was a lady, she was taken to House No.I-282, Ground Floor, Jahangir Puri and was searched by W/HC Shivani in the washroom, where no male member was present.

6. Heard counsel for the applicant and APP for the State.

7. In order to test the legal submission raised on behalf of the applicant, I have gone through the statement made by the applicant on being served with the notice under Section 50. Applicant stated that she understood the legal connotation of the notice and search and gave her willingness to be searched. Statement is duly signed by her. Search memo shows that there is no merit in the contention of the applicant that she was searched in the presence of members of the raiding party and to the contrary, it is recorded that applicant was taken to a house, as aforementioned and searched in the washroom by lady Head Constable Shivani and significantly, this finds mention in the FIR itself, portion of which has been read out by learned APP during hearing.

8. As per the case of the prosecution, applicant was arrested on 21.05.2023 and 400 gms. heroin was recovered from her, which is a commercial quantity of the contraband. On interrogation, she disclosed the



name of co-accused Gaurav as the source of recovered heroin and accused Rahul as the receiver. During investigation, two mobile phones, one Vivo registered in her name and one Oppo registered in the name of her daughter were recovered from her possession and analysis of the data revealed 2 Instagram IDs on which there were suspicious chats relating to buying/selling of contraband and one voice recording sent to the applicant's Instagram ID complaining about the quality of the 'maal'. Daughter of the applicant was interrogated who stated that 'maal' was smack and she was speaking to Gaurav on the directions of her mother and that the applicant and Gaurav used to talk on the Instagram account about supply of heroin and he visited their house to deliver the heroin. Mobile phones have been sent to FSL to retrieve the data and report of contraband from FSL confirmed that the recovered contraband tested positive for heroin. Thus, there is an alleged recovery of 400 gms. of heroin from the applicant, which is a commercial quantity. Data analysis of the 2 recovered mobile phones shows that the applicant was selling and buying heroin through chats on Instagram IDs. Applicant's counsel has made no attempt to even argue how the rigours of Section 37 of NDPS Act stand relaxed in the present case. Looking at the seriousness of the allegations and the alleged recovery of commercial quantity of heroin and the arrest of co-accused at the instance of the applicant, no ground for regular bail is made out at this stage.

9. Application is accordingly dismissed.

10. Needless to state that nothing stated in this order shall be construed as an expression on merits of the case.

JYOTI SINGH, J

MAY 31, 2024/kks