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

+ **BAIL APPLN. 4176/2023 & CRL.M.(BAIL) 1785/2023**

REENA

..... Petitioner

Through: Mr. Gaurav Kochar & Mr. Vishal,
Advocates.

versus

THE STATE GOVT. OF NCT OF DELHI

..... 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, i.e., the applicant. Efforts were



made to trace the applicant and non-bailable warrants were issued against her. The applicant was finally 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 applicant was remanded to judicial custody. The applicant further disclosed that she used to procure contraband from co-accused Yoonis @ Yunus. The said co-accused was subsequently arrested at the instance of the applicant and he further stated that he purchased contraband from a GRP official, Sunil. Subsequently, said Sunil was examined and he denied the allegations made by the applicant and co-accused Yoonis @ Yunus, 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 after co-accused Soyeb @ Mangla was arrested on 19.06.2023, his initial disclosure statement was recorded, wherein the applicant has not been named. It is submitted that apart from the said co-accused's disclosure on 06.07.2023, no incriminating material *qua* the applicant has come on record. It is further submitted that no recovery has been effected from the applicant. Learned counsel for the applicant submits that the latter suffers from tuberculosis, has been in custody since 23.11.2023 and no useful purpose will be served by keeping her in custody any further.

4. *Per contra*, learned APP for the State submits that the applicant, in her own disclosure statement, has admitted to procuring the contraband from one Yoonis @ Yunus. It is submitted that the applicant and co-accused Yoonis @ Yunus were in touch with each other over mobile. It is further submitted that the applicant and her husband are involved in another case, i.e., FIR No. 481/2016 under Sections 186/353/332/323/34 of the IPC



registered at PS Hazrat Nizamuddin. It is submitted that if released on bail, the applicant is likely to misuse the liberty granted to her.

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 Soyeb @ Mangla. 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. The applicant herein suffers from tuberculosis. Nominal roll dated 27.01.2024 reflects that she has been in custody for 02 months and 02 days, since 23.11.2023.

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 her 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/