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

+ **BAIL APPLN. 4233/2023**

RITA DAS

..... Petitioner

Through: **Mr. Pranay Abhishek, Advocate.**

versus

STATE

..... Respondent

Through: **Mr. Amit Ahlawat, APP for the State
with SI Vivek Tomar, P.S.
Govindpuri.**

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

31.01.2024

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1. The present application under Section 439 of the Cr.P.C. seeks regular bail in case FIR No. 311/2023, under Sections 21/61/85 of the NDPS Act, registered at P.S. Govindpuri.
2. It is the case of the prosecution that on a secret information, a raiding party was constituted and after following the procedure, the present applicant was apprehended on 24.05.2023 and after compliance of the necessary formalities, search was conducted, pursuant to which quantity of 12 gm *heroin* was recovered from the applicant. After completion of investigation, chargesheet was filed before the Court of competent jurisdiction and charges have been framed under Section 21(b) of the NDPS Act.
3. Learned counsel for the applicant submits that the search of the present applicant was conducted by a woman constable, which is violation of the procedure envisaged under Section 54 of the NDPS Act. It is further



pointed out that the quantity of the contraband seized, i.e., 12gm of *heroin*, is intermediate in nature and therefore rigors of Section 37 of the NDPS Act will not be applicable. The applicant is in judicial custody since 25.05.2023 and has no previous involvements in any other case. It is further pointed out that the present applicant is lady of 41 years of age and has 03 minor children to look after.

4. *Per Contra*, learned APP for the State submits that there was no violation of procedure with respect to search of the present applicant and after compliance of the due procedure the aforesaid contraband, i.e., 12 gm of *heroin* was recovered from the present applicant.

5. Heard learned counsel appearing on behalf of the parties and perused the record.

6. The contraband i.e., 12 gm of *heroin* recovered from the present applicant is intermediate in nature. The chargesheet in the present FIR has been filed and the charges have been framed. As per nominal roll dated 27.01.2024, received from the concerned Jail Superintendent, the applicant has been in judicial custody since 25.05.2023 and it further reflects that there is no previous involvement of the applicant.

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

- i. The applicant shall not leave NCT of Delhi 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.
8. The application is allowed and disposed of accordingly.
9. Pending application, if any, also stand disposed of.
10. Needless to state that nothing stated hereinabove is an opinion on the merits of the case.
11. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.
12. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

JANUARY 31, 2024/bsr