



\$~15

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

+ **BAIL APPLN. 4278/2023**

YASH RANA

..... Petitioner

Through: Mr. Akhtar Hussain, Ms. Sonia
Goswami & Mr. Rakesh Kr. Pant,
Advocates.

versus

STATE (NCT OF DELHI)

..... Respondent

Through: Mr. Amol Sinha, ASC (CrI.) for the
State with Mr. Kshitiz Garg, Mr.
Ashvini Kumar, Ms. Chavi Lazarus &
Mr. Arjun Singh Kadian, Advocates.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER
12.01.2024

%

1. The present application under Section 438 read with Section 482 of the Cr.P.C. seeks anticipatory bail in case FIR No. 222/2023, under Sections 21/25/29 of the NDPS Act, registered at P.S. Crime Branch.
2. The case of the prosecution as per status report dated 11.01.2024, authored by Mr. Anil Sharma, ACP, Anti Narcotics Task Force, Crime Branch, Delhi, handed up in Court today is that on 20.09.2003, one lady namely Jyoti alongwith her son Himesh @ Lucky was apprehended by the raiding team on a secret information and thereafter, 480 grams of *heroin* was recovered from the hand of accused Jyoti, who was sitting behind her son Himesh @ Lucky on a motorcycle. It is also the case of the prosecution that cash amount of Rs. 44,240/- was recovered from another bag carried by



accused Jyoti. As per case of the prosecution, on registration of the present FIR and during interrogation, aforesaid accused persons stated that they used to procure *heroin* from their relatives, namely, Seema, her son Rajiv Rana @ Bobby Rana and Yash Rana. As per the case of the prosecution, it is alleged that a raid was conducted in the evening of 22.09.2023 at the house of the present applicant at the instance of co-accused Himesh @ Lucky but the present applicant alongwith her mother namely, Seema, and her brother Rajiv Rana @ Bobby had fled away from their house on the night of 20.09.2023. It is pointed out that mobile phones of the said accused persons including the present applicant were found to be switched off since 21.09.2023. It is also the case of the prosecution that one co-accused, namely, Manish was arrested, who was working in the house of co-accused Jyoti and he disclosed that he had gone to house of co-accused Seema (mother of the applicant) with co-accused Himesh @ Lucky twice, where co-accused Himesh @ Lucky had given payments of Rs. 7 lakhs and Rs. 5 lakhs respectively in cash to Rajiv Rana @ Bobby and Yash (present applicant) in exchange for supply of *heroin*. It is pointed out that despite service of notice under Section 67 of the NDPS Act, the present applicant did not join investigation and thus, proceedings under Section 82 of the Cr.P.C. have been initiated against him alongwith her mother, namely, Seema and brother, namely Rajiv Rana @ Bobby. As per the status report, the CDR analysis brought on record reflects that that the present applicant alongwith her mother and his brother, Rajiv Rana @ Bobby had consistent connectivity with co-accused Jyoti and Himesh @ Lucky.

3. Learned counsel appearing on behalf of the applicant submits that the case of the prosecution *qua* the present applicant is based on disclosure



statements of co-accused person, which is inadmissible in law. It is further pointed out that the CDR analysis also would not reflect any culpability inasmuch as the co-accused persons, namely, Jyoti and Himesh @ Lucky are related to the present applicant and his family members. It is further submitted that no notice under Section 67 of the NDPS Act was ever served upon the present applicant and the latter came to know about the said notice only during proceedings filed on his behalf in W.P.(CRL) 3292/2023.

4. Learned Additional Standing Counsel for the State submits that custodial interrogation of the present applicant is essential for ongoing investigation in the present FIR in order to unearth the *modus operandi* of supplying *heroin* and for tracing the money trail. Learned Additional Standing Counsel relies upon a judgment of Hon'ble Supreme Court in "**The State of Haryana v. Samarth Kumar**", 2022 LiveLaw (SC) 622, wherein, the Hon'ble Supreme Court had held that granting anticipatory bail to an applicant, on the ground that there was no recovery and that the implication was on the basis of disclosure statement, was not warranted.

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

6. The applicant's name has although come in the disclosure statement of the co-accused persons, however, the connectivity of the applicant with the other co-accused persons cannot be ignored at this stage. It is the case of the prosecution that despite efforts, the applicant was not available at his residence and had fled away immediately upon apprehension of other co-accused persons, namely, Jyoti and Himesh @ Lucky. The case involves commercial quantity and the nature of recovery and investigation in the present case requires custodial interrogation of the present applicant to unearth the conspiracy with regard to recovery of *heroin* and distribution of



the same including the money trail.

7. In view of the above, no grounds from anticipatory bail are made out.

The application is accordingly dismissed.

8. Pending application(s), if any, also stand disposed of.

9. Needless to state that nothing stated herein is an opinion on the merits of the case.

10. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

JANUARY 12, 2024/bsr