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

+ BAIL APPLN. 3104/2024
AJMERI

.....Petitioner

Through: Mr. Kundan Kumar, Adv.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Raghuinder Verma, APP for the
State with SI Kartar Singh Rawat,
ASI Balraj, Narcotics Cell, OND.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

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11.09.2024

CRL.M.A. 26017/2024 (exemption)

Exemption is allowed subject to all just exceptions.

BAIL APPLN. 3104/2024

1. The present bail application has been filed seeking statutory bail under Section 439 Cr. PC read with Section 167(2) in case FIR No. 474/2024 registered at PS Narela Industrial Area under Sections 21/25/29 NDPS Act.
2. Learned counsel submits that the present FIR was lodged on 13.05.22024 subsequent to that, accused Naveen and Guru Sewa Singh were arrested on 29.02.2024. Allegedly, 500 gm heroin was recovered from the accused Naveen. Pursuant to the disclosure statement of accused Naveen, the present petitioner was arrested on 21.06.2024 and allegedly 116 gm heroin and 03 kg Ganja were recovered. Admittedly, the contraband recovered from possession of



the present petitioner is of intermediate quality not a commercial quantity. The charge sheet has yet not been filed. Learned counsel submits that since the charge sheet is required to be filed within 60 days and the contraband recovered from the possession of the petitioner is of intermediate quality, the petitioner may be admitted to bail.

3. Per contra, learned APP for the State has opposed the bail application on the ground that after recovery of 500 gm heroin from co accused Naveen and Gurusewa Singh, the present petitioner was arrested on 21.06.2024. Learned APP submits that co accused had disclosed that he used to supply heroin to present petitioner/accused Ajmeri.
4. Learned APP submitted that the present petitioner has criminal antecedents and she was involved in three criminal cases of Excise Act. Learned APP further submits that her entire family i.e. second husband namely Praveen, Son in law i.e. Chhote is always in NDPS cases and both are in JC. Learned APP submits that this facts shown that the entire family of the petitioner are habitual offenders and dealing in narcotics substance. Learned APP submits that there are material indicating the conspiracy amongst the accused persons. Learned APP submits that the therefore the bail may be rejected.
5. It is not disputed that from the present petitioner only 116 gm heroin and 3 kg of Ganja were recovered. While relying upon judgment of this Court in bail application 3351/2021 titled as ***Smt. Sachala Nayak v. State of NCT of Delhi*** and Bail Application No.44/2020 titled as ***Raju Diwakar @Pappu v. The State*** inter alia held that the recovery made from the co accused cannot added to the quantity recovered



from the petitioner. The Coordinate Bench of this Court in Raj ***Diwakar@Pappu*** (Supra) also relied upon the judgment of Punjab & Haryana in ***Vicky Kaur v. State of Punjab*** and ***Amar Sing Ramji Bhai Barot v. State of Gujrat*** (2005) 7 SCC 550 inter alia held that the quantity of contraband carried by both accused could not be added to bring it within the meaning of commercial quantity and thus Section 29 will not be attracted. It is not disputed that in the intermediate quality, the charge sheet is liable to be filed in 60 days. As far as the allegations of conspiracy is concerned, it is a matter of the trial and can only be seen at the time of appreciation of the accused.

6. This Court also in ***Anita V. State (NCT of Delhi)*** in Bail Appln. 1538/2022, DOD 20.07.2022, inter alia held that the recovery made from the co accused cannot be added to the quantity recovered from the petitioner/applicant.
7. In the facts and circumstances, the petitioner is admitted to bail, upon his furnishing a personal bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the concerned learned trial court, subject to the appellant providing his mobile number at the time of furnishing the bail bond, and also subject to the following further conditions:
 - a) the Petitioner shall cooperate in the investigation and appear before the Investigating Officer of the case as and when required;
 - b) the Petitioner shall under no circumstances leave India without prior permission of the Court concerned;



- c) the Petitioner shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case;
 - d) In case of change of residential address and/or mobile number, the Petitioner shall intimate the same to the Investigating Officer/ Court concerned by way of an affidavit.
8. Copy of the order be sent to the concerned Jail Superintendent for information and compliance.
9. In view of the above, the present application stands disposed of.

DINESH KUMAR SHARMA, J

SEPTEMBER 11, 2024

Pallavi/NA