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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 118/2025**
SHAMBHU NAGIYAPetitioner

Through: Mr. Rahul Sharma, Mr. Manish Tiwari, Mr. Deepak Ghai, Mr. Inzmamul Haq Khan, Mr. Shailender Mohan Popli, Mr. Varun Mohan Popli, Mr. Chandra Shekhar and Mr. Ambuj Singh, Advs.

versus

STATE GOVT OF NCT OF DELHIRespondent
Through: Mr. Utkarsh, APP for State with SI Dev Kumar PS Crime Branch

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

% **ORDER**
27.02.2025

1. The present petition has been filed under Section 483 BNSS, 2023 seeking regular bail in connection with FIR No.80/2024 under Sections 21/25/29 of NDPS Act registered at PS Crime Branch, Delhi.
2. The case of the prosecution is that based on a secret information, two brothers namely Sachin and Sumit were apprehended and during their personal search, heroin weighing 1010 gms. was recovered from a polythene bag which was being carried by accused Sumit. However, nothing incriminating was recovered from co-accused Sachin.
3. Both accused persons were arrested and during interrogation both disclosed that they had procured the recovered heroin from one Renu Nagiya



and they were going to supply it to one Gaurav, who is resident of Burari, Delhi.

4. Though, accused Renu Nagiya was absconding, she was finally arrested on 05.09.2024 from her house. She disclosed that she used to procure heroin from her distant relatives, namely, Kanchan and one Mehar and would supply the same to her customers through her brother-in-law (*devar*) accused/petitioner Shambhu.

5. The petitioner was accordingly arrested for the offence under Section 29 NDPS Act, who disclosed that he used to supply heroin to Sachin on the directions of his sister-in-law i.e. Renu Nagiya.

6. Mr. Rahul Sharma, the learned counsel appearing on behalf of the petitioner submits that no recovery has been made from the present petitioner and the name of the petitioner has surfaced only on the basis of disclosure statement of co-accused Renu Nagiya from whom also no recovery was made.

7. He further submits that the co-accused Renu Nagiya has already been granted bail by this Court *vide* order dated 07.01.2025 passed in BAIL APPLN. 4046/2024. He further contends that the antecedents of the petitioner are clean and the petitioner is not a flight risk.

8. He, therefore, prays that the petitioner may be enlarged on bail.

9. *Per contra*, the learned APP has argued on the lines of status report, which has been handed over at Bar and is taken on record.

10. I have heard the learned counsel for the petitioner, as well as, learned APP for the State and have perused the record.

11. The petitioner's name has been mentioned by co-accused Renu Nagiya in her statement recorded under Section 67 of NDPS Act but undisputedly



neither any recovery of contraband has been made from Renu Nagiya nor from the present petitioner.

12. A perusal of the order dated 07.01.2025 passed by a coordinate bench of this Court in BAIL APPLN. 4046/2024 shows that Renu Nagiya in whose disclosure statement the name of the present petitioner had surfaced, has already been granted regular bail.

13. As per the case of the prosecution, the recovery is from Sumit and Sachin and both the accused did not disclose the name of the present petitioner. Even otherwise, there is no incriminating material to connect the present petitioner to the said accused persons.

14. The only incriminating material against the petitioner is the disclosure statement of the co-accused Renu Nagiya recorded under Section 67 of NDPS, which is not admissible *per se* in view of the decision of the Hon'ble Supreme Court in ***Toofan Singh v. State of Tamil Nadu: (2021) 4 SCC 1***.

15. Further, it is not in controversy that the petitioner has clean antecedents in as much as there is no other case registered against him.

16. In view of the aforesaid facts and circumstances, there are reasons to believe that the petitioner may not be held guilty for the alleged offence. There is also no likely chances that the petitioner may indulge into the criminal activities in case he is enlarged on bail. Thus, the conditions of Section 37 of the NDPS stand satisfied in the present case.

17. Accordingly, the petitioner is admitted to regular bail subject to his furnishing a personal bond in the sum of Rs.50,000/- with one surety of the like amount to the satisfaction of the learned Trial Court/JMFC/Duty JM, further subject to the following conditions:



- a) Petitioner shall appear before the Court as and when the matter is taken up for hearing.
 - b) Petitioner shall provide mobile number to the IO concerned which shall be kept in working condition at all times and he shall not change the mobile number without prior intimation to the Investigating Officer concerned.
 - c) Petitioner/applicant shall not indulge in any criminal activity and shall not communicate with or come in contact with the witnesses or any family members of the witnesses.
18. It is clarified nothing mentioned above shall be construed as expression of opinion on the merits of the case.
19. The application is disposed of.
20. Copy of the order be forwarded to the concerned Jail Superintendent for necessary compliance.
21. Order *dasti* under signatures of the Court Master.

VIKAS MAHAJAN, J

FEBRUARY 27, 2025

N.S. ASWAL