



2025:DHC:1297



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of decision: 20th February, 2025***+ **BAIL APPLN. 184/2025****SONU SINGH**

S/o Matru Singh

R/o 31, Satipur Katra Chand Khan, Bareilly,
Shamat Ganj, Uttar Pradesh 243005.

.....Petitioner

Through: Mr. Hasim Alam, Advocate.

versus

STATE OF NCT OF DELHI

Through

SHO, P.S. Crime Branch

.....Respondent

Through: Ms. Meenakshi Dahiya, Ld. APP for
the State with SI Vishan Kumar
ANTF, Crime Branch.**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. An Application under Section 438 Cr.P.C now 482 BNSS has been filed for grant of Anticipatory Bail to the Applicant Sonu Singh, in case FIR No.230/2024 under Section 21/25/29 NDPS Act, Police Station Crime Branch.

2. It is submitted that the case of the Prosecution is that on 18.11.2024 on the basis of secret information received by SI Bharatlal Meena that two persons, namely Saplu and Sonu aged about 25-30 years, resident of Uttar



2025:DHC:1297



Pradesh and presently residing in Jahangirpuri Delhi, are engaged in transportation of Heroin/Opium (Afeem) from Badaun to Delhi for illegal supply. It was further disclosed that the said individuals had arrived in Delhi a day before for the purpose of supplying heroin. The secret information was conveyed by SI Bharatlal Meena as well as by secret informer himself to Inspector Rakesh Duhan via phone. On the basis of information received, raiding team reached at yellow colour building in Gali No.4, Ramgarh, Jahangirpuri, Delhi on the 1st floor, which was found locked. On inquiry, the owner of the house was identified as Jitender Jain R/o A-97, Ramgarh, Jahangirpuri, Delhi. Jitender Jain assisted the Police Team by contacting Saplu and requested him to come to the house, who arrived at the location.

3. He was apprehended by the raiding team. The house was unlocked with the keys in his possession. A green-coloured bag was found inside the premises which was found to be containing open polythene packet with a light red colored powder. On testing by using a field-testing kit, it yielded positive result for heroin. Subsequently, it was weighed and found to be 170 grams of heroin. Due procedure was followed and his disclosure statement was recorded, wherein he named the Applicant Sonu.

4. The Applicant has submitted that first Notice under Section 67 NDPS Act was served at his house on 22.11.2024 to join investigations, but he was not present at his residence. The second Notice under Section 67 NDPS Act was served upon him to join the investigations at the Crime Branch office on 07.12.2024 about which he came to know when he came back to his residence. Thereafter, no further Notice has been served to the Applicant.



2025:DHC:1297



NBWs have been issued against the Petitioner on 16.12.2024 by the learned Trial Court with directions to secure his presence. However, he is ready to join the investigations.

5. The Petitioner had filed an Application for Anticipatory Bail before the learned Trial Court which has been dismissed vide Order dated 18.12.2024.

6. The Applicant apprehending his arrest has filed the present Anticipatory Bail Application. He has relied upon Tofan Singh vs. State of Tamil Nadu, 2020 SCC Online SC 882 to argue that the Disclosure Statement of co-accused is not admissible in the eyes of law. Moreover, Coordinate Bench of this Court has in case of Md. Irshad vs. State of NCT of Delhi Bail Appln.994/2022 & CRL. M.A. 5749/2022 decided on 05.05.2022, has granted bail in similar circumstances.

7. Further reference has been made to the decision of the Coordinate Bench of this Court in Babli vs. State of NCT of Delhi in Bail Application No.3258/2024 dated 03.11.2023, whereby interim protection has been given to the Applicant till the disposal of the bail application. Similarly, reliance has been placed on Jasbir Singh vs. State of Punjab CRM-M-14077-2020. The reliance has also been placed on the recent judgment of this Court in Bhawna vs. State of NCT of Delhi in CRL.M.A.372/2024 decided on 05.01.2024 and Bail Application 55/2024 dated 03.04.2024, wherein interim protection has been granted with directions to the Applicant to join the investigations.

8. Furthermore, in the case of Prabhakar Tiwari vs. State of UP (2020) 11 SCC 648, it has been held that the involvement of the accused in other



2025:DHC:1297



cases cannot be the sole ground for dismissal of Bail Application.

9. Likewise, Supreme Court in the case of Maulana Mohd. Amir Rashadi vs. State of U.P. & Anr. CrI. Appeal No.159 of 2012 arising out of SLP (CrI.) NO.10244 of 2010 dated 16.01.2012 has observed that the criminal antecedents cannot be the basis for rejection of bail. Similar observations have been made in the case of Satish Kumar vs. State of Punjab CRM. 21422/2023 dated 02.11.2023 by Punjab and Haryana High Court.

10. It is thus, submitted that the Applicant has been implicated on the sole basis of the Disclosure Statement of the co-accused Saplu. No recovery of contraband or any incriminating material has been made from the Applicant. Consequently, the presumptions under Sections 35 and 54 of the NDPS Act are not attracted, as there is no substantive evidence establishing a direct link between him and the alleged offence. The alleged recovery from the co-accused, pertains to an intermediate quantity of contraband to which the stringent conditions of Bail imposed under Section 37 NDPS Act are not applicable. Hence, a prayer is made for grant of Anticipatory Bail or interim protection till the disposal of Anticipatory Bail.

11. The **Status Report** has been filed on behalf of the State, wherein it is submitted that on the basis of the secret information, co-accused was apprehended and 170 grams of heroin was recovered from his premises. He in his Disclosure Statement, named the Applicant Sonu as his accomplice who was selling Heroin in the area of Burari and Peeragarhi after procuring it from Bareilly, U.P.

12. Applicant has criminal antecedents including involvement in two cases in FIR No.397/2021 dated 07.08.2021 under Section 8/18 NDPS Act,



2025:DHC:1297



P.S. Katra, Shahjahanpur, U.P and FIR No.398/2021 dated 07.08.2021 under Section 25 Arms Act, District Shahjahanpur, U.P.

13. It is further submitted that multiple raids have been conducted and two Notices under Section 67 NDPS Act have been served, but the Applicant is evading arrest. His custodial interrogation is essential to uncover the entire drug supply network and also to identify other members of the syndicate and to seize further contraband that may be in transit.

14. CDR analysis establishes the connection between the Applicant and co-accused Saplu indicating his involvement in Narcotics trade. Even NBWs that have been issued against him could not be executed despite best efforts. On 16.01.2025, proceedings under Section 84 BNSS have been issued against him and the next date of hearing is 20.03.2025.

15. The Anticipatory Bail Application of the Applicant has been dismissed by learned ASJ on 18.12.2024. The Chargesheet against the main accused Saplu has been filed on 14.01.2025 before the learned Trial Court and the date for framing of Charge is fixed as 29.03.2025.

16. Reliance has been placed on the decision of the Apex Court in Anarul SK vs. State of West Bengal, SLP CrI. No.12621/20224 dated 19.09.2024, wherein it has been observed that “***the grant of anticipatory bail in cases involving Narcotic Drugs and Pshchotropic Substances (NDPS) is a very serious issue.***”

17. Similarly, in State of Haryana vs. Smarth Kumar Criminal Appeal No.1005 of 2002 (arising out of Special Leave Petition (CrI.) No.6575 of 2021), while considering the state’s appeal it was observed that “***To grant an anticipatory bail in a case of this nature is not really warranted and the***



2025:DHC:1297



High Court fell into an error in granting anticipatory bail to the respondents”. The impugned Order of anticipatory Bail was thus, set aside.

18. Similar observations have been made by the Apex Court in the cases of grant of bail in NDPS cases. In the case of State of Kerala vs. Rajesh (2020) 12 SCC 122 and Union of India vs. Ram Samujh (1999) 9 SCC 429.

19. The Anticipatory Bail Application is thus, opposed and it is submitted that the Application be rejected.

20. Submissions heard and record perused.

21. The Police team on the basis of secret information that co-accused Saplu along with the Applicant was travelling from Badaun to Delhi with contraband for supplying it in the area of Burari and Peeragarhi, raiding team was constituted. Saplu was apprehended and from his house and 170 grams of heroin was recovered from his house. During the investigations, he made a Disclosure Statement wherein he named the Applicant as his associate.

22. The Police since then have been trying to serve Notices under Section 67 NDPS Act as well as to apprehend him pursuant to NBWs issued against him by the learned Trial Court, but he has been evading his arrest. The contention is that at this stage, there is no evidence against him except the Disclosure Statement of the co-accused. However, it cannot be ignored and overlooked that this is the initial stage of investigations and no further headway can be made unless he joins the investigations.

23. Enough opportunities have already been granted to him to join the investigations, which he has concertedly avoided. The allegations against him are that he gets the heroin from Bareilly for supply to various areas in



2025:DHC:1297



Delhi. There are serious allegations under NDPS Act for which his custodial interrogation has also been sought on the grounds that the identity of other persons involved in the trafficking syndicate and also that the details about the drug trafficking has to be ascertained and further recovery, if possible, is to be made.

24. Furthermore, it cannot be overlooked that he evidently has an involvement in previous NDPS case registered against him in 2021.

25. In the light of aforesaid discussion, there is no ground for grant of Anticipatory Bail and the Application is hereby, dismissed.

26. The Petition is accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 20, 2025

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