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

+ **BAIL APPLN. 290/2025**

NIZAMUDDIN ANSARI @ NIZAM

.....Petitioner

Through: Mr. R.K. Tarun, Ms. Aditi Shivadhati,
Mr. Deepak Kumar, Ms. Mamta
Kumar and Ms. R.R. Bharti,
Advocates

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Manoj Pant, APP for the State
with SI Dev Kumar, ANTF, Crime
Branch

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

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23.01.2025

CRL.M.A. 2073/2025 & CRL.M.A. 2074/2025 (exemption)

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

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3. The present bail application has been filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereafter 'BNSS') on behalf of the applicant, seeking anticipatory bail in case arising out of FIR bearing no. 05/2025, registered at Police Station Crime Branch, East Delhi, for offences punishable under Sections 21/25/29 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (hereafter 'NDPS Act').



4. Issue notice. Mr. Manoj Pant, learned APP accepts notice on behalf of the State.
5. Brief facts of the case are that on 05.01.2025, at about 11:55 AM, P.S. Crime Branch had received an information that one Lalla Babu, who was a supplier of contraband in the Trans-Yamuna area, would be coming near Swami Dayanand Hospital, Delhi at 4 PM, accompanied by one Jitesh @ Jitu and Vijay @ Danny. Thereafter, a raid was carried out on 05.01.2025, wherein Lalla Babu was apprehended with 502 grams of narcotic substance i.e. Heroin. He was subsequently taken into custody after complying with mandatory provisions of NDPS Act. During the course of investigation, Lalla Babu had disclosed the name of the applicant herein in the present case.
6. The learned counsel appearing for the present accused/applicant states that the police officials had been visited the residence of the present applicant in Bareilly, Uttar Pradesh, in connection with the present matter. The learned counsel contends that the applicant herein is being falsely implicated in the present case, only on the basis of disclosure statement of the co-accused. It is argued that there is no evidence, direct or indirect, which could connect the applicant herein with the alleged offence in question. Therefore, it is prayed that the applicant herein be granted anticipatory bail.
7. On the other hand, the learned APP for the State argues that the present case is of recovery of Heroin of about 502 grams, which is commercial quantity. It is also pointed out by the learned APP that the applicant herein is previously involved in another case of similar nature. This Court's attention is also drawn to the fact that applicant has been in



constant touch with co-accused Lalla Babu, which is evident from their Call Detail Records (CDR). Thus, it is prayed that the present bail application be dismissed.

8. This Court has heard arguments on behalf of both the parties and has perused the material placed on record.

9. In the present case, the co-accused Lalla Babu was apprehended at the spot, and he was found to be in possession of 502 grams of Heroin, i.e. commercial quantity of narcotic substance. The co-accused Lalla Babu, in his statement recorded before the police, disclosed details about the involvement of present applicant in the case and supply of narcotic substances. Insofar as the argument of learned counsel, that applicant cannot be arrested solely on the basis of disclosure statement of co-accused, is concerned, this Court notes that the Hon'ble Supreme Court, while appreciating a similar argument in case of ***State of Haryana v. Samarth Kumar***: 2022 SCC OnLine SC 2087, held that the advantage of settled law, that disclosure statement is not admissible, can be taken at the stage of regular bail, and not at the stage of anticipatory bail especially in cases of offences under NDPS Act.

10. In addition to the aforesaid, it was revealed during investigation that the present applicant was in constant touch with co-accused Lalla Babu, since the mobile number of the applicant herein was saved in the mobile phone of Lalla Babu and about 616 calls have been made between the two of them in last six months. The applicant herein has not yet joined investigation despite service of notice under Section 67 of NDPS Act. He is also previously involved in another case i.e. FIR No. 122/2020, registered for offences under Sections 21/29 of NDPS Act.



11. Thus, considering the overall facts and circumstances of the case, nature of allegations, recovery of commercial quantity of Heroin in this case, CDR of the co-accused and present applicant, previous antecedents of the applicant, and the necessity of custodial interrogation of the applicant to unearth the nexus between the accused persons, this Court is not inclined to grant anticipatory bail to the present applicant.

12. The bail application is accordingly dismissed.

13. It is, however, clarified that nothing expressed herein above shall tantamount to an expression of opinion on merits of the case.

14. The order be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 23, 2025/zp

Click here to check corrigendum, if any