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

+ **BAIL APPLN. 466/2025**

RANJEET KAUR @ BABY

.....Petitioner

Through: Mr. Mir Akhtar Hussain and Ms.
Sonia Goswami, Advs.

versus

STATE NCT OF DELHI

.....Respondent

Through: Mr. Aman Usman, APP for the State
with SI Sohan Thakur, Narcotics Cell,
OND.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

28.04.2025

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1. This is an application under Section 483, *BNSS* for the grant of bail to the petitioner/accused in case FIR No.251/2024, under Sections 21/25/29 NDPS Act, registered at PS-Swaroop Nagar.
2. The learned counsel for petitioner submits that the recovery from the present petitioner is only 30 grams of heroin which is intermediate quantity being less than the commercial quantity. Thus, according to him, the rigours of Section 37 of NDPS Act are not applicable in matter of grant of bail in the case of present petitioner. He further submits that during investigation, the investigating agency had collected the CDRs of the mobile phone of the petitioner but found no evidence that the petitioner and the co-accused had ever talked with each-other.
3. It is stated that investigation is complete and no recovery is to be



effected from the present petitioner. The trial has yet not commenced and, therefore, the trial may take a long time to conclude. Petitioner is a lady. With regard to the previous involvement of the petitioner, it has been submitted that petitioner is on bail in all the previous cases and, therefore, there is no impediment in the grant of bail in the present case.

4. The bail application has been opposed by the learned APP arguing that 300 grams of heroin has been recovered from the co-accused Kaushlya and that during investigation, co-accused Kaushlya disclosed that she procured the heroin from the present petitioner and the present petitioner has been apprehended at her instance and from her possession 30 grams of heroin has been recovered.

5. He further submits that the statement given by the co-accused Kaushlya under Section 67 of the NDPS Act is admissible in evidence. According to him, it is a case of criminal conspiracy and the total recovery from both the co-accused being 330 gram is more than the commercial quantity and, therefore, petitioner must satisfy the twin test provided under Section 37 of the NDPS Act before the grant of bail.

6. The learned APP further submits that petitioner is involved in five more cases including three cases under NDPS Act and, therefore, there is a possibility that on being released on bail, she may indulge in similar such cases and thus, according to him, the twin conditions provided under Section 37 of NDPS Act are not satisfied in the present case for the grant of bail to the petitioner. He places reliance on the decision of coordinate bench of this Court in **Awadesh Vs. State Govt. of NCT of Delhi**, Bail Application no. 1692/2023.

7. In rebuttal, the learned counsel for petitioner also places reliance on



the decisions of the coordinate benches of this Court in the bail application **No.1538/2022, titled “Anita Vs. State (NCT of Delhi)”**, bail application **No. 3124/2024 Vinod Yadav Vs. State.**

8. Perusal of the status report reveals that on the basis of secret information, co-accused Kaushlya was apprehended and 300 grams of heroin was recovered from her possession. She was arrested and during police custody, she disclosed that she had procured the recovered heroin from the petitioner Ranjeet Kaur @ Baby. She took the police to the house of the present petitioner which led to the recovery of 30 grams of heroin from her house.

9. The question that arises for consideration at this stage is whether the quantity of heroin recovered from co-accused can be added/clubbed to the 300 grams heroin recovered from the petitioner.

10. In the case of **Smt. Sachala Nayak Vs. State of NCT of Delhi**, the coordinate bench of this Court relied upon a judgment of **Muthu Kumar & Ors. V. Station House Officer, Kottakal Police Station [(2008) SCC OnLine Ker 100]**, para six of which reads as under:-

“As far as this application is concerned, we are of the opinion that the question is mere academic. The applicants herein were charge-sheeted for offences punishable under section 20(b)(i) (C). The allegations in the charge sheet prima facie show that out of the total quantity of 31.150 k. grams of ganja, the 1st accused was found carrying 15 kg. and 50 grams folded in his waste, the 2nd accused was found in carrying 6 kgms. in a bag and 5 kgm in a suit case and 50 grams in his waste and 3rd accused was carrying 5 kg. and 50 grams in his waste. If that be so, even though total quantity as above is a commercial quantity, each of the accused was in possession of only a lesser than the commercial quantity. If the accused were not in possession of the commercial quantity, Section 20(b)(ii) (C) of the Narcotic Drugs and Psychotropic Substances Act will not apply. It is reported that the accused were in prison from 26-10-2007 and they had undergone 107 days imprisonment and the charge sheet was already filed. Considering the facts and circumstances of the case, we are of the opinion



that this is a fit case for granting bail on stringent conditions. "

11. Similarly para 10 of judgment of coordinate bench in bail application no.44/2020 titled "**Raju Diwakar @ Pappu Vs. The State** reads as under:-

"10. Similar issue came before High Court of Punjab & Haryana at Chandigarh in Vicky Kaur vs. State of Punjab, wherein while citing case of LawSuit (P&H) Amar Singh Ramji Bhai Barot vs. State of Gujarat (2005) 7 SCC 550 held that quantity of contraband carried by both accused could not be added to bring it within the meaning of commercial quantity and Section 29 will not be attracted. "

12. Dealing with the similar issue, the coordinate bench of this Court in **Anita** (supra), while relying upon the decisions of the coordinate benches of this court in the case of **Smt. Sachala Nayak Vs. State of NCT of Delhi**, bail application no.3351/2021, **Raju Diwakar @Pappu Vs. The State**, bail application no. 44/2020 was of the view that recovery made from the co-accused cannot be added to the quantity recovered from the petitioner.

13. Similarly in the case of **Rajeev Kumar Vs. State of NCT of Delhi** Bail Application 2411/2023, the coordinate bench of this court considered the judgment of this court in **Awadesh Yadav (Supra)** and dealt with the same in para 10, which is extracted below:-

"In a recent judgment of this Court in Awadesh Yadav (supra), the Court, after analysing the provisions of NDPS Act and following judicial precedents on the subject, carved out principles which would largely govern clubbing of the quantity of contraband recovered in a given case from two or more co-accused, at the stage of bail. From a reading of the principles so culled out as well as the judgments relied upon by the Court and the illustrations cited, broadly what the Court has held is that it is not in all cases that the prosecution can be permitted to club the quantities recovered from two or more co-accused. It would depend on the facts and circumstances of each case, as for instance, where the two co-accused are found travelling in the same vehicle or where the CDRs of the mobile



numbers of the co-accused reveal that they were constantly in touch and had conspired together to procure and transport the drug or where there is overwhelming incriminating material in the form of numerous, frequent and bulk money transactions through PayTM or bank accounts, photographs, parcel receipts, WhatsApp chats etc., as in the case of Aakash Mehra v. Narcotics Control Bureau, 2023 SCC OnLine Del 5597.”

14. In the said case, 350 grams of heroin was recovered from the co-accused, while 89 grams of heroin was recovered from the applicant therein. Similar arguments were urged on behalf of the State that the total quantity recovered was 420 grams by adding and clubbing the recoveries on the ground that both accused persons have conspired and it was on the disclosure statement of one of the co-accused that the said applicant was arrested.

15. The submissions were turned down holding that recovery from accused was only 100 grams which is an intermediate quantity and therefore bar of Section 37 of NDPS Act shall not apply. There is no reference in the status report to any telephonical communication exchanged between the two accused or any money transaction etc., to come to above *prima facie* finding that there was any conspiracy hatched between the two, permitting the prosecution to club 300 grams heroin recovered from the co-accused Kaushlya to the 30 grams allegedly recovered from the present petitioner.

16. Admittedly, the present petitioner and co-accused Kaushlya were not apprehended together. The present petitioner was arrested two days after the arrest of co-accused Kaushlya. Since the quantity allegedly recovered from the present petitioner is only 30 grams which is intermediate quantity, the rigours of section 37 of the NDPS Act shall not apply *qua* her.

17. Mere disclosure statement of co-accused Kaushlya cannot be relied



upon in view of the judgment of the Supreme Court in the case of **Toofan Singh v. State of Tamil Nadu**, (2020) 12 SCR 583, in the absence of any other incriminating or corroborative evidence.

18. The petitioner is a lady who is stated to be in custody since last more than 11 months. Previous involvement in other criminal cases cannot be sole ground for denying the bail to the petitioner. Hence, considering the totality of facts and circumstance, in the light of the submissions made, petitioner/accused is admitted to bail subject to the following terms and conditions:-

- a) The petitioner shall furnish a personal bond in the sum of Rs 30,000 (Rupees thirty thousand only) each with a surety in the like amount, to the satisfaction of the concerned trial court/duty magistrate;
- b) The petitioner shall not leave the country without the permission of the concerned court and if the petitioner has a passport, he shall surrender the same to the concerned trial court;
- c) The petitioner shall furnish to the IO concerned the cell phone number on which the petitioner may be contacted at any time and shall ensure that the number is kept active and switched on at all times;
- d) The petitioner will furnish her permanent address to the concerned IO and in cases she changes her address, she will inform the IO concerned;
- e) The petitioner shall not indulge in any act or omission that is unlawful, illegal or that would prejudice the proceedings in pending cases, if any;
- f) The petitioner shall appear in Court on every date of hearing unless



exempted;

- g) The petitioner shall not communicate with, or come into contact with the complainant or any of the prosecution witnesses, or tamper with the evidence of the case.

19. All the observations made herein above are only for the purpose of deciding the present petition and will have no effect on the merits of the case pending

20. The petition stands disposed of in the aforesaid terms.

RAVINDER DUDEJA, J

APRIL 28, 2025

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