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

+ **BAIL APPLN. 906/2025**

SIMRAN

.....Applicant

Through: Mr. Sunil Dalal, Senior Advocate
with Mr. C.M. Sangwan, Mr. Nikhil
Beniwal, Ms. Shipra Dali and
Ms. Riya Rana, Advocates

versus

THE STATE (GOVT. OF NCT DELHI)

.....Respondent

Through: Ms. Priyanka Dalal, APP for the
State with SI Jagbir, PS: Anti
Narcotics Cell North.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

11.03.2025

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1. The instant application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 [earlier Section 438 of the Code of Criminal Procedure, 1973] has been filed on behalf of the applicant seeking grant of anticipatory bail in FIR No.71/2025 dated 24.01.2025 registered at Police Station: Burari, Delhi, for the offences punishable under Sections 8/21 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. As per FIR, information was received from a secret informant on 24.01.2025 at 02:05 PM that one lady namely Simran,¹ with the aid of one of her associates namely Ajay Singh,² is involved in supply of *Smack/ Heroin* from her house situated at H.N.868, Gali No.33 C-Block West Kamal Vihar Burari, Delhi. Thereafter, the information was recorded as

¹ Hereinafter "*applicant*"

² Hereinafter "*accused*"



DD No.5 dated 24.01.2025 at 02:30 PM and a raiding team was constituted upon the directions of the Assistant Commissioner of Police/ Ops.

3. Subsequent thereto, the raiding team reached the place as informed, whence the secret informer after pointing towards the sixth house on Gali No.33, left the scene. At around 03:40 PM, the raiding team after knocking at the house of the applicant, introduced themselves as police officials. This resulted in the accused trying to flee the premises, but he was later overpowered by the police officers on the terrace of the house. On closer examination, the accused was found carrying three green coloured polythene in his hand.

4. Thereafter, the ASI opened one of the polythene and after testing the components contained therein through the Field-Testing Kit of Narcotic substances, the components were found to be *Smack/ Heroin* weighing 121 grams. Thus, seizure memo therefor was prepared accordingly. Though a search of the house of the applicant was conducted but no contraband was recovered. However, the accused was arrested and the present FIR came to be registered on a written complaint of the ASI.

5. Apprehending arrest, though the applicant first filed an application seeking anticipatory bail before the learned Trial Court which came to be dismissed vide order dated 25.02.2025. Resultantly, now, the present application before this Court.

6. As per learned senior counsel for the applicant, the name/ role of the applicant has only come forth in the disclosure statement of the accused namely Ajay Singh and nothing incriminating has been recovered from her and/ or her house as she is neither mentioned in the FIR nor any



role in the alleged offences has been assigned to her therein. The learned senior counsel submits that as per the settled preposition of law, disclosure statement of a co-accused is not admissible under law and the same cannot be read against another accused.

7. The learned senior counsel also submits that the custodial interrogation of the applicant is not required as all evidences are in possession of the Investigation Agency and further that the applicant is ready and willing to join the investigation as and when she is called upon by the Investigation Officer. Learned senior counsel yet further submits that since the quantity of *Smack/ Heroin*, recovered from the accused quantifies to 121 grams, which is an intermediate quantity, the bar against grant of bail under *Section 37* of the NDPS Act, does not apply to the present case.

8. Notice was issued and the Status Report was called for.

9. Though, as per learned APP for the State, the Status Report has been filed after serving a copy thereof to learned counsel for the applicant, however, the same is not on record. Since a copy thereof has been handed over in Court, the same is taken on record.

10. Relying upon the said Status Report, learned APP for the State opposes grant of anticipatory bail to the applicant in light of the nature of the offence alleged and the severity of punishment involved. Learned APP submits that the applicant does not have clean antecedents as she is also an accused in another FIR No.431/2024, also registered under the NDPS Act as well.

11. Learned APP further submits that it is not only the information received from the police informant that suggested the involvement of the



applicant in supply of the *Smack/ Heroin* to the accused, but it is the accused himself, who, has during investigation, in his disclosure statement disclosed that he works on behalf of the applicant. Learned APP then submits that since the applicant is alleged to be the *kingpin* of this drug syndicate, her custodial interrogation is necessary to unearth the source of the recovered contraband and assign the roles to the accused and other persons involved.

12. Learned APP further submits that the CDR details of the applicant clearly reflect that she was in continuous touch with the accused telephonically more than 400 times and further that the bank account statement of the accused reflects that there are 23 monetary transactions *inter se* them. As per the learned APP, since the applicant was not found at her residence when the police officials went there, the applicant has been served with a notice under *Section 67* of the NDPS Act through her family members twice, however, she is yet to join the investigation.

13. This Court has heard the learned senior counsel for the applicant and the learned APP for the State as also perused the documents on record including the Status Report filed on behalf of the State.

14. What transpires is that the accused was, *admittedly*, arrested from the premises belonging to the applicant and there is no other reason for the accused being present at the premises of the applicant with *Smack/ Heroin* in his possession. Moreover, as per her CDR details, she has been found to be in active contact with the accused as many as 400 times. Not only that, there have been as many as 23 monetary transactions in the bank account statement of the accused which reflects that there is some connection between the applicant on one hand and the accused on the other hand.



15. Even though the applicant has been named by a co-accused in a disclosure statement, however, it cannot form the sole basis for granting anticipatory bail to the applicant, more so, since it cannot wash away the fact that she is untraceable and/ or the fact that she is yet to join the investigation as also the fact that she herself is a named accused in a previous FIR No.431/2024, and that too under the NDPS Act.

16. Furthermore, taking into cognizance the nature and gravity of the offence alleged and the severity of punishment involved, public welfare and public importance are of prime concern when viewed against the personal liberty of the applicant. Also, since the chain of all those involved is yet to unfold, granting anticipatory bail to the applicant may somehow derail the ongoing investigation, particularly, since it is the initial stage of investigation when custodial interrogation of the applicant is/ may be required. Therefore, under such circumstances, it would be premature, mainly as the other factors for denying bail to the applicant otherwise heavily weigh against her. It is, thus, not felt pragmatic to grant anticipatory bail to the applicant at this stage.

17. Therefore, each of the aforesaid factors cumulatively taken are sufficient for denial of anticipatory bail to the applicant at this stage.

18. Accordingly, the present application is dismissed.

19. Needless to say, the observations made on the merits of the present matter, if any, are only for the purpose of adjudicating the present application and shall not be considered as expressions on merits of the matter.

SAURABH BANERJEE, J

MARCH 11, 2025/So

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