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

+ **BAIL APPLN. 1258/2025**

HASINA

.....Applicant

Through: Mr. Aashutosh Ahuja,
Advocate.

versus

STATE OF N.C.T. OF DELHI & ANR.Respondents

Through: Ms. Richa Dhawan, APP
for the State with SI
Kartar Singh Rawat, PS
Anti Narcotics Cell
(OND).

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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16.05.2025

1. The present application is filed seeking regular bail in FIR No.849/2024 dated 07.12.2024, registered at Police Station Narela, for offences under Sections 21/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('**NDPS Act**').

2. Briefly stated, the present case was registered on a secret information that the applicant/accused is involved in supplying of the contraband – heroin. The case of the prosecution is that the applicant's house was searched and 102 grams of heroin was recovered from her bed. The applicant is stated to be also named as an accused in another case bearing FIR No. 433/2023 registered at Police Station Narela for offences under Sections 21/25/29 of the NDPS Act.

3. The learned counsel for the applicant submits that the applicant has been falsely implicated in the present case.

4. He submits that in the FIR No. 433/2023, the offence was



committed by the husband of the applicant and she was falsely made an accused therein. He submits that the applicant is already on bail in the said FIR.

5. He submits that the contraband recovered from the applicant is an intermediate quantity and therefore bar under Section 37 of the NDPS Act does not apply in the present case.

6. He submits that the investigation is complete and the chargesheet has also been filed and no purpose would be served by keeping the applicant in further custody. The applicant was arrested on 08.12.2024 and is languishing in jail since then.

7. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie case* or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc.

8. In the present case, it is essentially argued that the applicant has been falsely implicated in the present case. It is further argued that the weight of the contraband recovered is intermediate hence, the embargo under Section 37 of the NDPS will not apply.

9. The quantity of heroin allegedly recovered from the applicant is not a commercial but an intermediate quantity as per the Schedule of the NDPS Act and therefore, the rigors of Section 37 of the NDPS Act, would not apply. [Ref: ***Puranmal Jat v. State of Rajasthan : 2023 SCC OnLine SC 1418***]



10. The applicant is a woman and was concededly living with her minor daughter at the time of arrest. The applicant though was arrested on an earlier occasion also in another case but was admitted on bail.

11. The object of jail is to secure the appearance of the accused during the trial. Applicant is in custody since 08.12.2024. The object is neither punitive nor preventive and the deprivation of liberty has been considered as a punishment. However, appropriate conditions ought to be put to allay the apprehension of the applicant tampering with the evidence or evading the trial.

12. The investigation is complete and chargesheet has been filed. In view of the foregoing, without adverting to the merits and commenting thereon and in view of the overall facts and circumstances, *prima facie* this Court deems this to be a suitable case for the applicant's release on bail.

13. In view of the above, the applicant is directed to be released on bail on furnishing a personal bond for a sum of ₹20,000/- with two sureties of the like amount, subject to the satisfaction of the learned Trial Court, on the following conditions:

- a. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case or tamper with the evidence of the case, in any manner whatsoever;
- b. The applicant shall under no circumstance leave the country without the permission of the learned Trial Court;
- c. The applicant shall appear before the learned Trial Court on every date of hearing, unless her appearance is exempted;



d. The applicant shall provide the address where she would be residing after her release and shall not change the address without informing the concerned IO/ SHO;

e. The applicant shall, upon her release, give her mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times.

14. In the event of there being any FIR/DD entry / complaint lodged against the applicant, it would be open to the State to seek redressal by filing an application seeking cancellation of bail.

15. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

16. The present bail application is allowed in the aforementioned terms.

AMIT MAHAJAN, J

MAY 16, 2025

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