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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of decision: 26th August, 2025

+ **BAIL APPLN. 1712/2025 & CRL.M.A. 13668/2025 (Exemption)**

SAPNA

W/o Deepak @ Bindu

Through its Parokar

Sanjay S/o Nand Lal

.....Petitioner

Through: Mr. J.P. Singh and Mr. Sandeep
Singh, Advocates (through VC)

versus

THE STATE NCT OF DELHI

(Through SHO P.S. Crime Branch)

.....Respondent

Through: Mr. Utkarsh, APP for the State with
SI Dev Kumar and ASI Dharmender.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. First Petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) [Section 439 of the Code of Criminal Procedure, 1973 (Cr.P.C)] has been filed on behalf of the Applicant/Sapna to seek **Regular Bail** in Case FIR No. 273/2023 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*hereinafter referred to as 'NDPS'*) registered at Police Station Crime Branch, Delhi.
2. The Applicant has submitted that she had filed an Application for Bail before the learned ASJ, which has been dismissed *vide* Order dated 17.04.2025.
3. On 15.11.2023, on the basis of the Secret Information, a raiding team



was constituted and the Applicant/Sapna was apprehended with 310 grams of alleged contraband. She was subsequently arrested. The FIR No. 273/2023 dated 15.11.2023 under Section 21 of NDPS Act, was registered at Police Station Crime Branch, Delhi.

4. The **Bail is sought on the grounds** that she is a peace-loving and law-abiding young citizen of around 25 years, who has been falsely implicated by the Investigating Agency in the present case.

5. It is submitted that the entire version of the Prosecution is highly doubtful as the entire episode has been fabricated. Furthermore, the procedure adopted for conducting the search, seizure and sampling under Section 50 and 52A of NDPS Act and the Rule 8, Rule 13 of NDPS Rules, 2022 and Standing Order 1/1988, are in *violation of the procedures* prescribed.

6. Despite the raid being conducted on the basis of prior information in broad daylight, at a crowded public place i.e. Khyber Pass Road, near Nagar Nigam Pratibha Sehsiksha, Vidhyalaya, *Investigating Agency, failed to associate even a single independent witness*. No efforts had been made to *photograph or video graph* the incident and the recovery. Moreover, no efforts were made by the Investigating Agency, to serve a *Notice under Section 100 of Cr.P.C. Prima facie*, all these factors make the Prosecution case highly doubtful.

7. Reliance has been placed on Ashok Kumar vs. State NCT of Delhi, Bail Appln. 1814/2024; Gopal Dangi vs. State NCT of Delhi, Bail Appln. 3350/2023; Krishan Chand vs. State of Himachal Pradesh, CRL. A. 186/2017; Sovraj vs. State (Govt. of NCT of Delhi), BAIL APPLN. 2537/2023; Mohd. Jabir vs. State, in Bail Appln. 1725/2022; Emeka



Emmanuel vs. State, Bail Appln. 1231/2022; Ranjan Kumar Chadha vs. State of Himachal Pradesh; State vs. Denis Jauregul Mendizabal, CRL. L.P. 241/2020; Arif Khan @ Agha Khan vs. The State of Uttarakhand; State vs. Denis Jauregul Mendizabal, CRL. L.P. 241/2020; Dayakar Illandulla vs. State of Maharashtra; Union of India vs. Mohanlal and Ors.; Om Prakash vs. State; Mangilal vs. State of MP.

8. It is further submitted that there was an *inordinate delay of 09 days in sampling of the seized contraband before the Magistrate*. The seizure was made on 15.11.2023, while the samples were taken on 24.11.2023. Not only this, the samples were deposited in the FSL on 30.11.2023 i.e. after 06 days, which was in contravention of Standing Order No. 1/1988 dated 15.03.1988, which states that the samples must be dispatched to the Laboratory within 72 hours of seizure, to avoid legal objection.

9. Reliance has been placed on Union of India vs. Mohanlal and Others; Tannu Ruhela vs. State NCT of Delhi, Bail Appln. 792/2024; Kashif vs. Narcotics Control Bureau; Gurpreet Singh vs. State NCT of Delhi.

10. Furthermore, there was a *discrepancy in the quantity of the sample taken to the FSL for analysis and the quantity received by the FSL as all the samples that were taken before the learned Metropolitan Magistrate, were admittedly 5 grams each, whereas when they got analysed by the FSL, the weight was was 5.6 grams and 4.76 grams*. In the light of variation in the weight of the samples, the possibility of tampering with the articles, cannot be ruled out.

11. Reliance has been placed on Mohd. Ramzan vs. State NCT of Delhi, Bail Application No. 524/2025; Abdul Rehman vs. State of Maharashtra, CRL A 367/2012; Inder Dev Yadav and Ors. Vs. State NCT of Delhi,



CRL.A. 545/2011; Kadir vs. State Govt of NCT of Delhi in Bail Appln. 553/2023; Md. Madhu vs. State of West Bengal, CRL. A. 33/2019; Ratan vs. State of Maharashtra, Bail Application No. 1687/2019; UOI vs. Veerumal Dularam Nainwani and Others, CRL. A. 1175/2009.

12. It is submitted that the Applicant is in jail since 15.11.2023 and the trial is not likely to be concluded soon. There are 19 Prosecution witnesses and not one has been examined till date. The Charges have also not framed. Such delay in trial is violative of his Fundamental Right of liberty under Article 21 of the Constitution of India.

13. Reliance has been placed on Lali vs. State NCT of Delhi, Bail Appl. No. 2507/2024; Biswajit Mondal @ Biswajit Mandal vs. The State of West Bengal, SLP (Crl.) No. 11731/2022; Karim Adaldar vs. The State of West Bengal, SLP (Crl.) No. 8653/2022; Nitish Adhikary alias Bapan vs. State of West Bengal, SLP (Crl.) No. 5679/2022; Upwan Kumar @ Ratan Kumar @ Upwan Kumar Sriwastva vs. The State of Bihar, SLP (Crl.) 3354/2024; Gokul Mali vs. The State of Madhya Pradesh, SLP (Crl.) No. 566/2023 and Manish Sisodia vs. Directorate of Enforcement, SLP (Crl.) No.8781/2024.

14. It is further submitted that the investigations in the case are complete and the custodial interrogation of the Applicant, is no longer required. She is willing to abide by all the terms and conditions.

15. Hence, the Prayer is made for grant of Regular Bail to the Applicant/Sapna.

16. **Status Report on behalf of the State** is taken on record wherein it has been stated that in addition to the recovery, there is enough incriminating evidence against the Applicant, to link her with the commission of offence.



17. The Applicant after being arrested, had made a Disclosure Statement of supplying Heroin to a lady, *Asha @ Pasho* and she further disclosed that she had procured the Heroin from *Sanjay @ Sonu. Bhawna* was the other intended receiver in drug trafficking business.

18. During the PC remand, on 16.11.2023, photograph of contraband Heroin was recovered from her mobile phone. She had taken the photograph of the pouch containing Heroin, which on weighing, was 17.79 grams. She had sent this photograph to the Accused *Sanjay @ Sonu (supplier of Heroin)*. Efforts were made to apprehend *Sanjay @ Sonu* but he has been absconding. The proceedings under Section 82 Cr.PC were initiated. He was eventually arrested on 22.03.2024. He intentionally hid his mobile phone used for drug dealing and Section 201 of the Indian Penal Code, 1860 (*hereinafter referred to as 'IPC'*), has been added against him.

19. On 19.11.2023, *Asha @ Pasho (intended receiver)* was arrested and 32 grams Heroin was recovered from her possession, which was seized in accordance with the provisions of NDPS Act.

20. The other intended receiver, *Bhawna* was granted Anticipatory Bail by this Court. She was formally arrested on 24.04.2025 and was released on personal bond.

21. The FSL result has been received, which has found the samples to be positive for Heroin.

22. It is further submitted that the entire investigations had been carried out, in accordance with the provisions of the Act.

23. It has also been found that the Applicant/Sapna used mobile WhatsApp to contact her partners and to handle her drug trafficking business. There were 17 calls from 13.07.2023 to 09.11.2023 between her



and Sanjay @ Sonu, the supplier. The Charge-Sheet has been filed and the Charges have been framed on 16.07.2025.

24. The Bail Application is opposed on the ground of recovery of 310 grams of Heroin from the Applicant.

25. Reliance has been placed on *The State of Kerala vs. Prabhu*, Criminal Appeal No. 87/2021 dated 20.08.2024, decided by the High Court of Kerala wherein it has been observed that it is no more *res integra* that if the recovery has not been affected from the person of the accused but from a bag being carried by him, the procedural formalities of Section 50 of NDPS Act, are not required to be complied with.

26. The Supreme Court in *Narcotics Control Bureau vs. Mohit Agarwal*, Criminal Appeal Nos. 10001-1002/2022, arising out of Petitions for Special Leave to Appeal (CRL.) No. 6128-29 of 2021, has observed that the expression *reasonable grounds* used in Clause (b) of sub-Section (1) of 37 would mean credible plausible and grounds for the Court to believe that the Accused is not guilty of the alleged offence. For arriving at such conclusion, facts and circumstances must exist in a case that can persuade the Court to believe that the Accused person has not committed an offence. Dovetailed with the aforesaid satisfaction, is the additional consideration that the Accused is unlikely to commit the offence while on Bail.

27. The information sheet of Applicant is unverified. Her mother-in-law has stated that she does not reside in Padam Nagar, Sarai Rohilla, Delhi since last four years i.e. from the time of filing the Charge-Sheet. She and her associates run a big drug trafficking syndicate. There is a strong likelihood that she may get involved in offences of similar nature or tamper with the evidence, if Bail is granted.



28. *The Bail Application is, therefore, opposed.*

29. **Learned counsel for the Petitioner** has submitted that the co-accused, Asha @ Pasho from whom 32 grams of Heroin was recovered, has already been admitted to Bail. The other co-accused, Bhawna from whom no recovery was affected, has been granted Anticipatory Bail by this Court.

30. The Applicant is in custody since 15.11.2023. The trial is likely to take long and therefore, the Bail be granted.

31. **Learned Prosecutor** has submitted that in the light of the observations of the Apex Court in Mohit Agarwal, (supra) and considering the gravity of the offence, the Bail be not granted to the Applicant.

Submissions heard and record perused.

32. As per the case of the Prosecution, on a Secret information, the Applicant/Sapna had been apprehended, from whom 310 grams of Heroin was recovered. She is the one who distributes the Heroin to other persons after receiving it from the main Accused, Sanjay @ Sonu (*the supplier*) and is part of the drug trafficking syndicate.

33. The Applicant has claimed parity with two co-accused, who have been granted Bail. However, from one co-accused, Bhawna, there was no recovery effected while from the other co-accused, Asha @ Pasho, 26 grams of Heroin had been recovered. *The roles of all the Accused, are distinguishable and there can be no parity claimed by the Applicant.*

34. However, it cannot be overlooked that she is in Judicial Custody since 15.11.2023 i.e. for almost twenty months. The Charges have been framed, but no Prosecution witness has been recorded out of 19 witnesses, relied upon by the Prosecution. The trial is likely to take long.

35. Here, it is apposite to refer to the decision of the Apex Court in Union



of India vs. K.A. Najeeb (2021) 3 SCC 713 wherein it was observed that courts are obligated to release the undertrial prisoners on Bail if there is a delay in trial. Further, it was observed that statutory restrictions do not exclude the discretion of Constitutional Courts to grant bail on the grounds of violation of Fundamental Rights enshrined in Part III of the Constitution of India.

36. In the case of Rizwan vs. State of NCT of Delhi, Bail Application No. 2800/23, this Court opined that various courts have recognized that prolonged incarceration undermines the right to life, and liberty, guaranteed under Article 21 of the Constitution of India, and therefore, conditional liberty must take precedence over the statutory restrictions under Section 37 of the NDPS Act.

37. Considering all the aforesaid factors, the Applicant/Accused is granted Regular Bail, on the following terms and conditions:

- a) The Applicant/Accused shall furnish a personal bond of Rs.35,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.
- b) The Applicant/Accused shall appear before the Court as and when the matter is taken up for hearing;
- c) The Applicant/Accused shall provide her mobile number/changed mobile number to the IO concerned which shall be kept in working condition at all times;
- d) The Applicant/Accused shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.
- e) In case the Applicant/Accused changes her residential address, the



same shall be intimated to learned Trial Court and to the concerned I.O.

38. The copy of this Order be communicated to the concerned Jail Superintendent, as well as, to the learned Trial Court

39. Accordingly, the present bail Application is disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 26, 2025/RS