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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 2242/2025

SHILPI DAWAR

.....Appellant

Through: Mr. F.K. Jha, Mr. Gaurav
Jha and Ms. Shalini Jha,
Advs.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Ritesh Kumar Bahri,
APP for the State with
Insp. Sandeep Tushir,
NR-II, Crime Branch.

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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04.07.2025

1. The matter is received on transfer.
2. By the present application, the applicant seeks pre-arrest bail in FIR No. 287/2022 dated 12.12.2022, registered at Police Station Crime Branch, for offences under Sections 20/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985.
3. Brief facts of the case are that on 11.12.2022 at around 10pm, a Bolero car bearing No. DL-8C-BB-0863 suspiciously stopped on the service road near Sector 10-11 Rohini Road, Delhi, and the driver namely- Lakshay Jaggi was seen by the Police team, getting in and out of his car in an unusual manner. On account of this suspicious activity, accused Lakshay Jaggi was apprehended which led to the recovery of 54 small glass bottles of Tetrahydrocannabinol ('THC') weighing 648 gms in



total, 52 gms of Ganja

4. The accused Lakshay Jaggi, during interrogation, disclosed that one person namely– Pankaj Dawar (husband of the applicant) used to supply the contraband to Lakshay Jaggi. Accused Pankaj Dawar was apprehended on 14.12.2022.

5. During the course of investigation, it was revealed that one Bank Account bearing No. 0248104000158183 (IDBI Bank) was used by the accused Pankaj Dawar for the money transactions. This account was found to be in the name of the applicant.

6. The learned counsel for the applicant points out that the husband of the applicant, who was arrested in the present FIR, has already been admitted on default bail.

7. He submits that the applicant is a housewife and after her husband was admitted on bail, the Police is now trying to arrest the applicant in order to put pressure.

8. It is unequivocally established that, to be granted bail, the accused charged with offence under the NDPS Act must fulfil the conditions stipulated in Section 37 of the NDPS Act.

9. The accusation in the present case is with regard to the recovery of commercial quantity of contraband. Once the rigours of Section 37 of the NDPS Act are attracted, as provided under the Section, the Court can grant bail only when the twin conditions stipulated in Section 37(1)(b) of the NDPS Act are satisfied in addition to the usual requirements for the grant of bail – (1) The court must be satisfied that there are reasonable grounds for believing that the person is not guilty of such offence; and (2) That the person is not likely to commit any offence while on bail.

10. In such circumstances, it is pertinent to note that the



present FIR was registered wvDzK on 12.12.2022 pursuant to recovery of certain contraband from accused Lakshay Jaggi. The Police alleged that the accused Lakshay Jaggi had disclosed that the contraband was procured from the accused Pankaj Dawar, who was thereafter apprehended on 14.12.2022.

11. Neither the Investigating Officer nor the learned counsel for the applicant is aware of the date on which the accused Pankaj Dawar was admitted on bail. The Investigating Officer, despite searching his case file for 5-10 minutes, has not been able to figure out the same.

12. It, however, appears that the husband of the applicant was admitted on bail sometime in the year 2023, whereafter the Police Authorities suddenly woke up in the month of May 2025 alleging that the co-accused Lakshay Jaggi, had transferred funds into bank account of the applicant in the year 2022. Then, the notice was issued upon the applicant for the first time on 08.05.2025, which led to filing of the application under Section 438 of the Code of Criminal Procedure, 1973. The manner, in which the investigation is conducted by the Police, is *prima facie* shoddy.

13. The reason for custodial interrogation mentioned in the Status Report is that the money was transferred into the applicant's bank account. Admittedly, the Police was aware of the said transactions way back in the year 2022 itself, pursuant to which the husband of the applicant was arrested.

14. Even though the lapse on part of the investigating agency should not come to the aid of the accused, however, in peculiar facts of the present case, when the husband of the applicant was arrested in 2022, and Police was already in possession of the



material against the applicant. ~~over~~ they waited for more than two years to issue a notice to the applicant, therefore, *prima facie* the incriminating material against the applicant does not inspire confidence.

15. At this stage, *prima facie*, the material on record cannot be deemed sufficient to link the applicant to the alleged offence or other co-accused persons.

16. A Coordinate Bench of this Court in ***Phundreimayum Yas Khan Vs. State (GNCT of Delhi) : 2023 SCC OnLine Del 135***, has held that when there is no material to link the applicant with the recovery of the commercial quantity from the co-accused persons, the rigors of Section 37 would not apply.

17. In such circumstances, this Court is of the opinion that the embargo of Section 37 of the NDPS Act does not come in the way of granting bail to the applicant.

18. The applicant being a woman, is also undeniably entitled to special consideration while dealing with the question of bail, in terms of the proviso to Section 480 (1) of the BNSS.

19. It is also stated that the applicant has clean antecedents, is married and undertakes to extend full cooperation in the investigation.

20. The learned Additional Public Prosecutor ('APP') for the State submits that custodial interrogation is required to recover the mobile phone linked with the account of the applicant, which is registered in the name of accused Pankaj Dawar.

21. The argument is unmerited. The Police cannot wake up after two years to recover a mobile phone from a co-accused.

22. The argument advanced by the learned APP for the State that the Bank Statements would be required, also holds no water.



Concededly, the same are bank transactions and the Police has the authority to call for the record from the bank itself.

23. The learned APP for the State has not expressed any apprehension of the applicant fleeing from justice or tampering with evidence. The apprehension, even otherwise, can be taken care of by putting appropriate conditions.

24. I find no reason for custodial interrogation of the applicant.

25. Concededly, no recovery has been effectuated from the applicant in the present case and her name was not disclosed by the co-accused persons to be involved in the present case. She is sought to be arrested since it appears that her bank account was used by her husband, for the transfer of money, in relation to the same transaction, for which her husband was arrested and has already been admitted on bail. In view of the circumstances and the material on record, there are reasonable grounds for believing that the applicant is not guilty.

26. It is pointed out that the applicant is of clean antecedents and has undertaken to not commit any offence. This Court is satisfied that the applicant will not commit any offence while on bail. Thus, the twin conditions under Section 37 of the NDPS Act are satisfied.

27. In view of the above, it is directed that in the event of arrest, the applicant 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 concerned SHO, on the following conditions:

- a. The applicant shall join and cooperate with the investigation, if required, as and when directed by the IO;



- b. The applicant shall not leave the country without the prior permission of the learned Trial Court;
- c. 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;
- d. The applicant shall appear before the learned Trial Court as and when directed;
- e. 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;
- f. The applicant shall give her mobile number to the concerned IO/SHO and shall keep her mobile phone switched on at all times.

28. In the event of there being any violation of the stipulated conditions, it would be open to the State to seek redressal by filing an application seeking cancellation of the bail.

29. It is clarified that the observations made in the present order are for the purpose of deciding the present pre-arrest bail application, and should not influence the outcome of the Trial and should not be taken, as an expression of opinion, on the merits of the case.

30. The present bail application is allowed in the aforesaid terms.

AMIT MAHAJAN, J

JULY 4, 2025

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