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

+ **BAIL APPLN. 3295/2025 & CRL.M.A. 25750/2025**

MOHD. RAFI @ BABOOApplicant
Through: Ms. Srishti Choudhary,
Adv.

versus

STATE, NCT OF DELHIRespondent
Through: Ms. Richa Dhawan, APP
for the State
SI Kartar Singh, PS- Anti-
Narcotics Cell

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

% **29.08.2025**

1. The present application is filed seeking pre-arrest bail in FIR No. 341/2024 dated 02.04.2024, registered at Police Station Narela Industrial Area, for offences under Sections 21/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('**NDPS Act**').

2. It is the case of the prosecution that a recovery of 520g of Heroin was effected from accused Rajender *alias* Yusuf, and a sum of ₹5 lakhs was also recovered from his house. During the course of the investigation, more persons were arrested on the disclosure statements of the accused Rajender and other co-accused persons. It is alleged that co-accused Nadeem, who was named by co-accused Rajender during interrogation as one of the suppliers of the contraband, disclosed that he used to procure the contraband from his father-in-law (the applicant) and his mother-in-law. Co-accused Nadeem further disclosed that his n-laws had built a new house on Bareilly-Delhi highway road, where they prepare Heroin for supply to consumers.



3. On the basis of the disclosure of co-accused Nadeem, a raid was conducted at the said house and a recovery of 508g of Heroin as well as 5.292 Kg of Acetic Anhydride and 4.980 Kg of Sodium was effected from there. The subject house was found to be jointly owned by the applicant and his wife.

4. The only ground pressed on behalf of the applicant is that he is entitled to pre-arrest bail as his wife, who is a joint owner of the house from where the recovery has been effected, has already been granted pre-arrest bail by this Court by order dated 13.08.2025.

5. At the outset, it is relevant to note that the previous bail application filed by the applicant had been dismissed as withdrawn on the same day when the applicant's wife was granted relief. Merely two weeks after withdrawing his previous application, yet another application has been filed on behalf of the applicant seeking the same relief without there being any change in circumstances.

6. The Hon'ble Apex Court in ***G.R. Ananda Babu v. State of T.N.: (2021) 16 SCC 725*** has held that successive anticipatory bail applications ought not to be entertained by the Courts. The same also has an effect in increasing the pendency of the proceedings before the Courts. The Courts while entertaining the successive bail applications also has to waste the precious time which can be devoted for consideration of the litigation in relation to the genuine litigants.

7. Moreover, dismissal of bail application as withdrawn should be treated as rejection on merits because as a matter of practice, the counsel withdraws the bail application only if they find that the Court is not inclined to exercise the discretion in



their favour [Ref. **Rajkumar v. State (NCT of Delhi): 128 (2006) DLT 264**]. The fact that the applicant's bail application was withdrawn on the same day when his wife was being granted relief is also reflective of the same.

8. It has been held in a catena of judgments that there must be change in circumstances to warrant fresh consideration of the bail application. In the present case, there is no change in circumstances after the dismissal of the applicant's previous application to warrant fresh consideration.

9. Even otherwise, insofar as the ground of parity is concerned, it is imperative to note that while granting relief to the applicant's wife, this Court was weighed by the fact that she is a housewife and a *pardanashin* lady, who was not even residing in the house from where the recovery was effected. It was observed that in such circumstances, the possibility of the applicant's wife being ignorant of the illicit activities could not be ruled out at this stage. Furthermore, it was also noted that the applicant's wife had clean antecedents and she is unlikely to commit any offence whilst on bail. After taking note of the aforesaid factors, this Court had deemed it appropriate to grant relief to the applicant's wife even though restraint is to be exercised in grant of pre-arrest bail in NDPS Cases.

10. Although the material against the applicant and his wife, that is, the disclosure statement as well as the recovery, is the same, however, the case of the applicant stands on an extremely different footing. As noted above, *prima facie* reasonable doubt was created in favour of the applicant's wife due to her status as a housewife and lack of antecedents, which gives rise to a possibility of her being unaware of the activities in a property



where she was not currently residing. The same cannot help the applicant overcome the bar under Section 37 of the NDPS Act.

11. Moreover, the applicant is stated to be involved in six other cases for offences under the NDPS Act. Although it is argued that the mere involvement of the applicant in other cases does not disentitle him from grant of bail, the quantum and nature of the prior antecedents of the applicant are in teeth with the twin conditions stipulated in Section 37 of the NDPS Act. An order of bail cannot be granted in a routine manner so as to allow the applicant to use the same as a shield.

12. It is further argued that the applicant and his family members are being falsely implicated in the present case and a petition instituted by the applicant's wife in relation to the same is pending. While the veracity of the case of the prosecution and any infirmities in investigation will be seen during the course of trial, at this stage, considering the antecedents of the applicant as well as the fact that the present application has been filed merely two weeks after withdrawing the previous one, this Court is not inclined to grant any relief to the applicant.

13. It is well settled that the power to grant a pre-arrest bail is extraordinary in nature and is to be exercised sparingly. Crimes related to narcotics have a widespread impact on society, and the police must be afforded the opportunity to conduct a thorough investigation. It is stated that the applicant has not joined the investigation and grant of pre-arrest bail to him would also undoubtedly impede further investigation.

14. In view of the aforesaid discussion, the present application is dismissed. Pending application also stands disposed of.

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.

AMIT MAHAJAN, J

AUGUST 29, 2025