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

+ **BAIL APPLN. 3527/2025**

SONALEE RAAJ@SANDEEP

.....Petitioner

Through: Mr. Adv. (appearance not given)

versus

STATE THROUGH SHO PS BEGUMPUR

.....Respondent

Through: Mr. Yudhvir Singh Chauhan, APP
with SI Ashish Garg, PS Begampur.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

07.11.2025

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BAIL APPLN. 3527/2025

1. The present application under Section 483 Bhartiya Nagarik Suraksha Sanhita [“BNSS”]/ Section 439 Cr.P.C. has been filed by the petitioner seeking regular bail in FIR No. 574/2023, registered at P.S. Begum Pur, under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [“NDPS Act”].
2. As per the prosecution case, on 09.08.2023, a police team from PS Begumpur comprising HC Pardeep and Ct. Vinit was on area patrolling duty near Kabootar Chowk, Sector-23, Rohini, when they apprehended Jagga @ Himanshu @ Hunny on suspicion. Upon search, 11 grams of smack (heroin) was allegedly recovered from his possession.
3. During interrogation, accused Jagga in his disclosure statement stated that he used to procure the contraband from Sonalee Raaj @ Sandeep i.e. the



present petitioner. Acting on his disclosure, the police obtained permission and conducted a raid at the petitioner's residence situated at Plot No. 1206/5, Gali No.12, near Radha Krishan Mandir, Kapashera, Delhi, on 11.08.2023, from where 263 grams of smack was allegedly recovered. The recovered contraband, being of commercial quantity, was seized and sealed on the spot and marked as serial no. A.

4. Accordingly, the petitioner was arrested on the same day i.e. on 11.08.2023 and has remained in custody since then. Investigation has since been completed and chargesheet under Sections 21/29 of NDPS Act has been filed before the learned Trial Court. The FSL report confirmed the seized substance to contain Diacetylmorphine and other narcotic compounds covered under NDPS Act.

5. The petitioner's application for regular bail was dismissed by the learned ASJ-02, North-West, Rohini Courts, Delhi ["trial court"] vide order dated 06.09.2025. Being aggrieved, the petitioner has filed the present bail application.

Submissions on behalf of the Petitioner

6. Learned counsel submits that the petitioner is a transgender and is innocent and has been falsely implicated in the present case. Ld. Counsel contends that there are procedural lapses in the case and that the alleged recovery was not effected in the presence of any independent public witness, thereby vitiating the proceedings under Section 50 of the NDPS Act. Reliance is placed on judgment passed by Coordinate bench of this Court in **Vikash @ Vicky v. State, Bail Appln. No.1668/2024, decided on 21.10.2024**, where bail was granted due to lack of independent witnesses and delay in trial. Furthermore, there was no photography/videography



done.

7. Ld. counsel draws attention of this Court to the Nominal Roll dated 03.11.2025 and states that the petitioner has been in custody since 11.08.2023 i.e. for almost 2 years 01 month, has clean antecedents and has not been awarded any punishment in the last one year. Since the investigation stands concluded and the charge-sheet has been filed, there is no likelihood of her absconding or tampering with the evidence and her further detention would amount to violation of her fundamental right under Article 21. It is stated that trial is at stage of evidence and only 01 out of 17 witnesses have been examined and that trial will take long to conclude.

8. In support, he placed reliance on judgments of Hon'ble Supreme Court in *Dheeraj Kumar Shukla v. State of U.P., SLP (Crl.) No. 6690/2022, decided on 25.01.2023*, and *Man Mandal v. State of West Bengal, SLP (Crl.) No. 8656/2023*, to contend that prolonged incarceration without progress of trial justifies grant of bail even in cases involving commercial quantity and that prolonged incarceration violates the right of speedy trial of the accused mandated under Article 21 of the Constitution.

9. Ld. Counsel also submits that the co-accused Jagga was granted bail by the trial court on 03.02.2024. It is prayed that regular bail be granted to the petitioner on ground of parity and long period of incarceration undergone.

Submissions on behalf of the State

10. *Per contra*, learned APP for the State opposes the bail application of the petitioner. It is submitted that the recovery from the petitioner constitutes a *commercial quantity*, and therefore, the rigours of Section 37 of the NDPS Act squarely apply. It is contended that both the search and seizure were



conducted in accordance with law laid under the NDPS Act. Moreover, as per the Previous conviction/Involvement report, the petitioner is also involved in another case bearing FIR no. 251/2007 under sections 399/402 IPC, registered at PS Kapashera.

11. It is submitted that the investigation has revealed a link between the petitioner and the co-accused Jagga and as per the chargesheet and CDR details, they exchanged 04 telephonic calls. Furthermore, the disclosure statement of the co-accused Jagga led to recovery of contraband from the petitioner's possession.

12. It is argued that the twin conditions under Section 37(1)(b) NDPS Act have not been satisfied, and that the petitioner has not demonstrated reasonable grounds to believe that she is not guilty of the alleged offence or that she is unlikely to commit any offence while on bail. It is prayed that the bail application be dismissed.

Court Reasoning & Analysis

13. The Court has heard the arguments addressed by learned counsel for the respective parties and has perused the material on record.

14. The law relating to grant of bail in serious offences, particularly those involving offences under NDPS, is well settled. While personal liberty is a fundamental right under Article 21 of the Constitution, it must be balanced against the seriousness of the allegations, the nature of evidence, and the risk of tampering with the evidence or intimidating witnesses [***State of U.P. v. Amarmani Tripathi, (2005) 8 SCC 21***].

15. The contraband recovered from the petitioner is 263 grams of smack which clearly falls within the ambit of "commercial quantity" as per the NDPS Act, thereby attracting the rigour of Section 37 of the NDPS



Act. In *Union of India v. Niyazuddin Sk.*, (2018) 13 SCC 738, the Supreme Court reiterated that in NDPS cases involving commercial quantity, “bail is an exception and jail is the rule.” The Court emphasized strict compliance with Section 37, observing that the satisfaction of twin conditions is mandatory for grant of bail.

16. In the present case, the recovery of a substantial commercial quantity from the petitioner’s residence pursuant to the disclosure of a co-accused forms a crucial incriminating circumstance. The FSL report confirms that the substance recovered contained Diacetylmorphine and other narcotic components under the NDPS Act. The plea of false implication and absence of independent witnesses, though relevant for trial, cannot be a determinative factor at this stage.

17. The argument concerning the absence of independent public witnesses does not, by itself, render the recovery doubtful. The law is well-settled that non-joining of public witnesses, while desirable, absence of independent public witnesses does not automatically vitiate the prosecution case if the testimony of official witnesses is reliable and credible. [*Ajmer Singh v. State of Haryana*, (2010) 3 SCC 746].

18. As regards the plea of prolonged incarceration, the Court is mindful that the petitioner has remained in custody since 11.08.2023 i.e. for almost 2 years 01 month and that only 01 out of 14 witnesses have already been examined. However, in cases involving commercial quantity under the NDPS Act, the legislative mandate of Section 37 places stringent conditions for the grant of bail. Unless the Court is satisfied that there are reasonable grounds to believe that the accused is not guilty of the alleged offence and is not likely to commit any offence while on bail, such relief cannot be



extended. At this stage, in view of the nature of recovery of commercial quantity and the evidence already on record, this Court is not persuaded to record such satisfaction.

19. In ***State of Kerala v. Rajesh*** (2020) 12 SCC 122, the Supreme Court reaffirmed that the power to grant bail under the NDPS Act is strictly governed by Section 37, which imposes mandatory twin conditions that must be satisfied before any accused involved in commercial quantity offences can be released. The Court held that no liberal or lenient approach is permissible, as such offences pose grave danger to public health and societal order. It emphasized that the term “reasonable grounds” requires substantial, credible evidence indicating the accused’s innocence, not mere *prima facie* satisfaction. The judgment underscored that drug traffickers are societal hazards, inflicting widespread harm, especially upon vulnerable youth. Accordingly, the Court concluded that bail in NDPS cases involving commercial quantity cannot be granted unless both statutory conditions are fully met.

20. Regarding the argument seeking bail on parity, it is observed that the co-accused Jagga was allegedly found in possession of 11 grams of heroin unlike the present petitioner who was found with 263 grams of heroin- which qualifies as “commercial quantity” under NDPS Act. Hence the petitioner cannot seek parity with co-accused.

21. While the Court acknowledges the petitioner’s satisfactory jail conduct and long incarceration period, these factors alone cannot override the statutory bar under Section 37 of the NDPS Act, in the absence of compelling circumstances establishing a *prima facie* case of false implication. Moreover, the petitioner does not have clean antecedents



inasmuch as he is involved in another case bearing FIR no. 251/2007 under sections 399/402 IPC, registered at PS Kapashera.

22. Having considered the totality of the facts, this Court finds no merit in the present bail application. The bail application is accordingly dismissed.

23. Nothing in this judgment shall tantamount as an opinion on the merits of the case and any observations made are only for the purpose of the present bail application.

24. The trial court is directed to expedite the trial proceedings and conclude at the earliest.

RAVINDER DUDEJA, J

NOVEMBER 7, 2025/AK