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

+ BAIL APPLN. 4578/2024
HASINA

.....Petitioner

Through: Mr. Suraj Prakash Sharma, Adv.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Ms. Priyanka Dalal, APP for the
State.

Mr. Sikartar Singh Rawat,
Advocate(Anit Narcotics Cell).

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

% **26.08.2025**

1. The applicant, before this Court, having remained under incarceration since 04.04.2023, is seeking indulgence of this Court for grant of bail during pendency of the trial in the criminal proceedings arising out of FIR No. 0348/2023 dated 04.04.2023 for alleged offences under Section 21 of Narcotic Drugs and Psychotropic Substances Act, 1985 registered at P.S. Narela Industrial Area.

2. Per FIR, prosecution case is that on 04.04.2023 at about 11:15 AM, a secret informer approached the Narcotics Cell, and conveyed that one Hasina was engaged in selling heroin in bulk and retail, and would be delivering heroin to a customer from her residence between 02:45 PM to 03:15 PM. The information was placed before Inspector Umesh Sharma and further conveyed to ACP Operations who directed immediate action under



Section 42 NDPS Act. The information was duly recorded, and a raiding party was formed under the supervision of the Inspector.

2.1 At about 02:45 PM, the raiding team, accompanied by the secret informer, reached Hasina's residence, where the informer identified Hasina standing at the door with a polythene bag. She was apprehended by W/HC. She was informed of her rights under Section 50 NDPS Act. She declined to be searched in the presence of a Magistrate or Gazetted Officer. Polythene bag contained 340 grams of heroin. The contraband was sealed and seized as per procedure, and a seizure memo was prepared. Subsequently, Hasina was taken into custody, and the seized substance was deposited in safe custody.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. The learned counsel for the applicant claims that applicant has been falsely implicated in the present case. He would further submit that the applicant has clean antecedents and has never been convicted in any case.

4.1 Learned counsel would further submit that the search and recovery proceedings are vitiated as the applicant was not searched by an authorized female officer under Section 42 NDPS Act. Reliance is placed on the judgment of a coordinate bench of this Court in ***Heena Khatun vs. State (NCT of Delhi)***¹, wherein it was held that search of a female can only be conducted by a female officer duly authorized under Section 42, and any other search would vitiate the recovery. In support of the present application, reliance is also placed upon orders dated 19.03.2024 in ***Anil Tamang vs. State (NCT of Delhi)***², 22.05.2024 in ***Hanumante Kaliraman vs. State***

¹2023 SCC online Del 2600

²BAIL APPLN. 3416/2023



(GNCTD)³, 06.09.2023 in *Anjali vs. State (GNCTD)*⁴, and 22.07.2024 in *Kailash vs. State (NCT of Delhi)*⁵.

4.2 Learned counsel would also submit that no fruitful purpose would be served in keeping the applicant in judicial custody, particularly when the investigation stands concluded, the charge sheet has been filed, and custodial interrogation is no longer required. He further submits that the trial is not likely to conclude in the near future.

4.3 Learned counsel for the applicant would further submit that the applicant belongs to a poor family. Her continued incarceration would severely hamper her future and reputation, exposing her to hardened criminals. He would also submit that the applicant is a permanent resident of Delhi with no likelihood of absconding or tampering with evidence.

5. Learned APP for the State would oppose the bail plea arguing that the applicant deserves no indulgence from this Court as commercial quantity of psychotropic substances is involved in the incident.

5.1 Moreover, she further submits that petitioner moved application for grant of bail before the learned ASJ/ Special Judge (NDPS), Rohini Court but the same was dismissed vide order dated 08.08.2024.

5.2 Learned APP further opposes the bail plea on the grounds that she may indulge in drug trafficking again if the applicant is granted bail.

6. Having heard, the arguments of the learned counsel seem to have substance, but same are matter of trial.

7. Be that as it may, the applicant has already undergone almost 2 years

³BAIL APPLN. 1654/2024

⁴BAIL APPLN. 2464/2023

⁵BAIL APPLN. 2514/2024



5 months (date of arrest i.e. 04.04.2023) of incarceration during pendency of the trial, wherein chargesheet already stands filed. The testimony of prosecution witnesses is being recorded. As far as tampering of the evidence is concerned, the same seems to be an unfounded suspicion since most of the evidence is documentary in nature, which has already been seized by the prosecution and is beyond the reach of the applicant.

8. As regards influencing the witnesses, they are all officials of the prosecution and thus, it is an unfounded suspicion that she may try to reach out to them.

9. Trial is moving at a snail's pace and not likely to conclude anytime soon.

10. It transpires that the applicant was arrested on 04.04.2023 and is under incarceration ever since and she has no criminal antecedents of any kind. She is stated to be a single parent of a 16-year-old handicapped child who requires the constant presence of an attendant in her absence. The minor, a special child, is languishing in sheer penury and starvation. There exists no apprehension of her either absconding or tampering with the evidence.

11. Taking wholesome view of the matter, the application is allowed. The applicant is thereby directed to be released on bail on his furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court.

12. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any manner, as any expression on the merits of the pending case and the trial



shall proceed without being influenced either way by the same. In case the applicant is found involved in any repeat offence while on bail, the prosecution shall be at liberty to seek cancellation of the bail granted to the applicant in the present case vide instant order.

13. Accordingly, the bail application stands disposed of.

ARUN MONGA, J

AUGUST 26, 2025/nk/rs