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

+ **BAIL APPLN. 4781/2024 & CRL.M.(BAIL) 2205/2024**

SMT. MANJEET KAUR

.....Petitioner

Through: Mr. Manoj Joshi and Ms. Shikha
John, Advocates

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Laksh Khanna, APP for State
with SI Kartar Singh Rawal, PS: Anti-
Narcotics Cell

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **28.01.2025**

1. The present petition has been filed under Section 482 of Bharatiya
Nagarik Suraksha Sanhita, 2023 (BNSS) seeking grant of anticipatory bail in
FIR bearing no. 292/2024 under sections 20/25/29 of the Narcotic Drugs and
Psychotropic Substances Act, 1985 ('NDPS Act') registered at Police
Station (P.S.) Bhalswa Diary

2. The case of the prosecution is that based on secret information, a
person namely Mohd. Shoaib was apprehended with recovery of 270 gms. of
heroin on 21.03.2024. The said accused was arrested and case was
registered under the present FIR at the P.S. Bhalswa Diary and investigation
was initiated. It is stated that during interrogation, Mohd. Shoaib disclosed
that he had procured *heroin* from person named Saddam, who has a furniture
shop in Kirti Nagar and another person named as Rampal alias Jai sometime
back. It is stated that thereafter on 22.03.2024 a raid was conducted at the



hideout of accused Saddam and he was arrested with a total of 586 gms. of Heroin. It is stated that raid was then conducted, at place of Rampal. Initially, Rampal was found absconding but on 22.04.2024, accused Rampal was arrested and 400 gms. of *heroin* was recovered from his house.

2.1. It is stated that during the Police Custody (PC) remand of accused Rampal it was disclosed by him that he procured *heroin* from one Rafat r/o Bareilly for supply of the same to one person named Neha r/o Majnu ka Tila, Delhi.

2.2. It is stated that in the further investigation conducted of the alleged Neha, a pointing-out-memo was prepared wherein Rampal had pointed out to the house of accused Neha, stating that he had to supply *heroin* to her at the said place which is House No. 1, G.F, New Block, Aruna Nagar, Majnu ka Tilla, Civil lines, Delhi. It is stated that thereafter a raid was conducted at the said house but the same was found locked and Neha was not present. It is stated that two (2) notices dated 11.07.20204 and 26.09.2024 under Section 67 NDPS Act were affixed on the said house of the alleged Neha, but said Neha did not join the investigation.

2.3. It is stated that during the course of further investigation, accused named Rafat Hussain was formally arrested on 20.09.2024.

2.4. It is stated that thereafter in search of the alleged accused Neha, local inquiries from individuals residing in the same neighbourhood area were conducted wherein it was learnt that the alleged accused Neha is also known as Manjeet Kaur, and she is the third wife of Mirza Nawab Beg alias Gaurav.

2.5. It is stated that during investigation Call Detail Records (CDRs) of the Mobile no. 7011331549 and another Mobile number 8287526205 which



belonged to Applicant/Manjeet Kaur alias Neha were obtained. And as per the record 57 conversations have been found between these two numbers from 17.12.2022 to 21.04.2024. It is stated that during investigation it was revealed that SIM of Mobile no. 7011331549 has been issued in the name of Roopa, who is the daughter of the accused Rampal alias Jai. In her statement recorded under Section 161 CrPC Roopa has stated that the Mobile no. 7011331549 was registered in her name but it was used by her father i.e. Rampal alias Jai.

2.6. It is stated that since the Applicant has not joined the proceedings, Section 84 BNSS (erstwhile Section 82 of Cr.P.C) proceedings for declaring her a proclaimed offender have been initiated against her on 20.01.2025 and the same are listed on 06.03.2025.

2.7. It is stated that Krishna, the mother of the Applicant has also been previously involved in seven (7) criminal cases out of which three (3) cases are registered under NDPS Act. Similarly, Saraswati the aunt of the Applicant as well has been previously involved in eight (8) cases all which are registered under NDPS Act. It is stated that thus, the record clearly shows that the entire family of Applicant is involved in drug trafficking.

2.8. It is stated that the co-accused Rampal, Shoaib, Saddam and Rafat also have multiple FIRs under NDPS Act registered against them.

2.9. It is stated that in these facts the extent of the role of the Applicant herein is required to be investigated during interrogation.

3. Mr. Kaushik, learned senior counsel for the Applicant states that this is a case of mistaken identity. He states that there is another person by the name of Neha, who is also the resident of same locality and infact there are FIRs pending against the said Neha. He states that the details of the said



namesake Neha wife of Rahul have been furnished in the bail petition, however, no steps have been taken by the IO to verify the said submission of the Applicant.

3.1. He further states that custodial interrogation of Applicant is not required and investigation can be done without arresting Applicant. He further states that the applicant undertakes to join investigation as and when directed by this Court or as required by the police officials /IO.

3.2. He states that at the time of arrest the accused Rampal was using mobile no. 9599215376 (Airtel) and in his statement recorded under Section 161 Cr.P.C, he has stated that he was imprisoned for the last eight years and came out on bail only last year i.e., 2023. Thus, the reliance on CDRs of the Mobile no. 7011331549 issued in the name of Roopa and Mobile number 8287526205 of the Applicant are not relevant as they pertain to period from 17.12.2022 to 21.04.2024, whereas in 2022-23 accused Rampal was in Judicial Custody.

3.3. He states that the Applicant cannot be penalized for involvement of her mother and aunt in other criminal cases.

4. Mr. Laksh Khanna, learned APP states that custodial interrogation of the Applicant is necessary. He states that the Applicant has been duly named by the co-accused Rampal, who has stated that he used to supply *heroin* to the Applicant herein. He states that there is no issue of mistaken identity. He states that co-accused Rampal has pointed out the house of the Applicant, where regularly deliveries of the contraband were made.

4.1. He states that Applicant in this bail petition has not disputed that she is acquainted with the family of the co-accused Rampal. He states that the Applicant admits that she used to communicate with her mobile number on



the mobile number 7011331549 issued in the name of Roopa i.e., daughter of co-accused Rampal. He states however, Roopa in her Section 161 Cr.P.C. statement has categorically stated that the mobile number 7011331549 was used by her father i.e., co-accused Rampal.

4.2. He states that the list of multiple cases under NDPS Act pending against the mother and maternal aunt of the Applicant are not disputed and are indicative of the fact that the involvement of the Applicant requires examination and investigation.

4.3. He states that Applicant has failed to join the investigation despite due service of notices dated 12.07.2024 and 27.09.2024 under Section 67 of NDPS Act. He states that Section 84 BNSS (erstwhile Section 82 of Cr.P.C) proceedings for declaring her a proclaimed offender have been initiated against her on 20.01.2025 and the same are listed on 06.03.2025.

4.4. He states that grant of anticipatory bails in cases involving NDPS would have serious ramification on the ability of the prosecution agency to carry out effective investigation. He relies upon the observations made by the Supreme Court in its order dated 19.09.2024 passed in SLP (Crl.) 12621/2024 titled as '**Anarul SK v. The State of West Bengal**'.

4.5. He states that the Applicant has earlier as well filed an anticipatory bail application before the Spl. Judge, (NDPS), North, Rohini Courts, Delhi ['Trial Court'] and the same was dismissed by the said Court vide order dated 21.10.2024.

5. This Court has considered the submission of the parties and perused the material on record.

6. The subject FIR has been registered under Sections 20/25/29 of NDPS Act. In pursuance to the disclosure statements of the co-accused, the total



recovery of contraband (*heroin*) effected i.e. 1256 grams. Co-accused Rampal, who was arrested on 22.04.2024 along with 400 grams *heroin* had stated in his disclosure statement that he regularly supplied *heroin* to the Applicant herein.

7. In view of the disclosure statement of the co-accused Rampal, the pointing-out-memo of the residence of the Applicant at the instance of the co-accused Rampal and the admitted fact that the Applicant herein had regular communication with mobile number 7011331549, which is issued in the name of Roopa, who is the daughter of co-accused Rampal; are sufficient circumstances justifying the Respondent's issuance of notices dated 12.07.2024 and 27.09.2024 under Section 67 of the NDPS Act. The Respondent has stated that Additional Deputy Commissioner of Police conducted local enquiries to ascertain that the Applicant Manjeet Kaur is also known as Neha and in this regard a statement of two (2) individuals residing in the same area was recorded.

8. In these facts, this Court finds no merit in the submission of the Applicant that it is a case of mistaken identity.

9. The Applicant has failed to reasonably explain in the petition the reasons for her not joining investigation after being served with the notices issued under Section 67 of the NDPS Act. The Applicant has been absconding and the fact that her mother and her maternal aunt have several FIRs pending against them under the NDPS Act is also a fact which can't be ignored at the stage of consideration of the anticipatory bail application.

10. The power exercisable under Section 482 of BNSS for granting anticipatory bail is extraordinary in character and is to be exercised only in exceptional cases, where it appears to the Court that the person may be



falsely implicated or there are reasonable grounds for holding that the person, who is accused of the offence is not likely to otherwise misuse his liberty. However, in the facts of this case, this Court is unable to satisfy itself that the Applicant is being falsely implicated; on the contrary this Court is of the opinion that the Applicant has not cooperated with the investigation despite service of the two (2) notices.

11. Thus, at this stage it does not appear to this Court that the State is seeking custodial interrogation of the applicants without any material.

12. In this regard it would be relevant to refer to the judgment of Supreme Court in **Prem Shankar Prasad v. State of Bihar, (2022) 14 SCC 516** wherein it has been specifically held that:

“10.2. Despite the above observations on merits and despite the fact that it was brought to the notice of the High Court that Respondent 2-accused is absconding and even the proceedings under Sections 82/83CrPC have been initiated as far back as on 10-1 -2019, the High Court has just ignored the aforesaid relevant aspects and has granted anticipatory bail to Respondent 2-accused by observing that the nature of accusation is arising out of a business transaction. The specific allegations of cheating, etc. which came to be considered by the learned Additional Sessions Judge has not at all been considered by the High Court. **Even the High Court has just ignored the factum of initiation of proceedings under Sections 82/83CrPC by simply observing that “be that as it may”.** The aforesaid relevant aspect on grant of anticipatory bail ought not to have been ignored by the High Court and ought to have been considered by the High Court very seriously and not casually.

10.3 In State of M.P. v. Pradeep Sharma [State of M.P. v. Pradeep Sharma, (2014) 2 SCC 171: (2014) 1 SCC (Cri) 768], it is observed and held by this Court that if anyone is declared as an absconder/proclaimed offender in terms of Section 82CrPC, he is not entitled to relief of anticipatory bail...

11. Thus, the High Court has committed an error in granting



anticipatory bail to Respondent 2-accused ignoring the proceedings under Sections 82/83CrPC.”

(Emphasis Supplied)

13. This is a case involving the recovery of commercial quantity of *heroin* from the accused persons, wherein the role ascribed to the Applicant is material as she appears to be the last point of receiver supply/delivery. Considering the above and having regard to the nature of the offence, the antecedents of the family of the Applicant and the fact that the Applicant has not joined and cooperated in the investigation which led to the initiation of proceedings under Section 82 of the Cr.P.C. against her, therefore, this Court is of the view that no ground for grant of anticipatory bail to the Applicant has been made out.

14. Accordingly, the present petition stands dismissed.

15. Pending applications, if any, stands disposed of as infructuous.

16. Needless to state that nothing herein shall be construed as an expression of opinion on the merits of the case, or the investigation that is yet to be concluded.

MANMEET PRITAM SINGH ARORA, J

JANUARY 28, 2025/MS/hp