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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of decision: 5th August, 2025

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BAIL APPLN. 1694/2025

MEENA

W/o Hari

.....Petitioner

Through: Mr. Javed Khan, Mr. Irfan Firdous and
Mr. Monish Ali Khan, Advocates.

versus

STATE(GOVERNMENT OF NCT OF DELHI)

Through SHO

Cyber Cell, Crime Branch, Delhi

.....Respondent

Through: Mr. Utkarsh, APP with SI Satwant
Singh, PS: Crime Branch, Cyber Cell.**CORAM:****HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA****J U D G M E N T (oral)**

1. Petition under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'B.N.S.S.'*) and Section 439 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.PC'*) has been filed on behalf of the Applicant, Meena for grant of Regular Bail in FIR No. 87/2024 under Sections 21/25/29 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (*hereinafter referred to as 'NDPS'*) in Session Case No. 823/2024.

2. *Briefly stated*, Meena w/o Hari, aged about 45 years, was arrested by Cyber Cell, Crime Branch, Delhi on 26.04.2024 for the alleged offences under Section 21/25/29 of NDPS Act. It is submitted that she has already undergone judicial custody for a period of about one year four months from



26.04.2024.

3. It is asserted that she has been falsely implicated in this case. The entire case of Prosecution is based on concocted and fabricated facts and the investigations are faulty. It is alleged that she was found in possession of 100 grams of Heroin, which is intermediate quantity and the rigors of Section 37 of NDPS Act, is not attracted.

4. The Bail is sought on the grounds that no written communication of ground of arrest was given by the Investigating Officer to the Applicant for which reliance has been placed on Pankaj Bansal vs. Union of India, (2024) SCC 76 and Prabir Purkayashita vs. State of NCT, 2024 8 SCC 254.

5. It is further asserted that there was no compliance of Section 50 Cr.P.C, which renders the arrest illegal. Reference is made to Vihaan Kumar vs. State of Haryana & Anr., 2025 INSC 162 wherein it has been reiterated that such arrest is violative of Article 22(1) of Constitution of India, 1950.

6. It is further asserted that no independent persons were joined even though the arrest was made from a crowded place. Reliance is placed on Zakhir Hussain vs. State Govt. of NCT of Delhi, Bail Appl. No. 1418/2024 and Gopal Dangi vs. State of Govt. of NCT of Delhi, Bail Appl. No. 3350/2023.

7. The **next ground** agitated for grant of Bail is that there was no photography or videography conducted at the time of search and seizure, for which reliance has been placed on Shivam vs. State NCT of Delhi, Bail APP. No. 3312/2023 decided on 15.07.2023; Veer Singh vs. State Govt. of NCT of Delhi, Bail APP No. 599/2024, decided on 21.10.2024; Kanchman Yonjan vs. State Govt. of NCT of Delhi, Bail APP No. 2845/2023, decided on 08.07.2024; Mohan munib vs. State, Bail APP No. 3946/2023, decided on



15.07.2023 and Rohan Malik vs. State Govt. of NCT of Delhi, Bail APP. No. 4303/2024, decided on 13.01.2024.

8. It is further asserted that there is non-compliance of Section 42 of NDPS Act as the Applicant has been arrested solely on Disclosure Statement of co-accused, Akhil Dass, between sunset and sunrise. Therefore, search could not have been conducted without obtaining warrant or authorization, in terms of Section 42(1) of NDPS Act. This non-compliance of mandatory requirement is fatal to the case of the Prosecution. Reliance is placed on Sukhdev Singh vs. State of Haryana, AIR 2013 SC 953.

9. Furthermore, once the contraband is recovered, there are other provisions like Section 57 which are mandatorily required to be complied. It is to provide fairness in the process of recovery and investigation, which is one of the basic features of criminal jurisprudence. It is a provision aimed at protection of innocent persons from false implication. Reliance is placed on Gangaram Rama Gundkar & Anr. vs. State of Maharashtra, 2002 CRILJ2578 Bombay High Court.

10. It is also asserted that there is a violation of Section 50 of NDPS in so much as there are lots of cutting on the body of the Notice of Section 50 of NDPS Act.

11. It is further submitted that the Applicant is in judicial custody for a long period. The recovery of contraband has already been affected. Her custodial interrogation is not required. Any further incarceration would in fact amount to conviction without trial. Hence, the prayer is made that she be granted Bail.

12. **Status Report has been filed on behalf of the State** wherein it is stated that on 24.04.2024, on a specific intelligence input, raiding team was constituted and Akhil Dass was apprehended from a bus. He was carrying one



black bag over his left shoulder and after giving Notice under Section 50 of NDPS Act, search was conducted of the bag. A transparent polythene pouch tied with a red rubber band was recovered, which contained light pink powder. A Field Test was conducted to confirm that the substance was Heroin. The net weight of the Heroin was 1097 grams (excluding the pouch weight of 07 grams) which qualifies as Commercial quantity under the NDPS Act.

13. After due compliance of all the formalities, present FIR No. 87/2024 was registered. During interrogation, Akhil Dass made a Disclosure Statement that he had procured the recovered Heroin from the Applicant/Meena and that she was regular supplier and had made a WhatsApp call to him in this regard, on 25.04.2024.

14. On the basis of electronic surveillance, CDR analysis and specific lead from Akhil Dass, the Applicant/Meena was apprehended on 26.04.2024 near Metcalf House, GTK Road, Delhi. Due compliance of the provisions by giving Notice under Section 50 of NDPS was made and 100 grams of Heroin was recovered from her Salwar's pocket. The investigations revealed the name of the Applicant was mentioned in the Disclosure Statement of the co-accused. Her identity was established *via* CDR location analysis, WhatsApp communication and physical recovery.

15. The Bail is opposed on the ground that any technical lapses regarding the supply of written arrest grounds, do not entitle the Applicant to Bail for which reliance has been placed on Union of India vs. Dharamendra Prasad, 2023 SCC OnLine SC 850 and Union of India vs. Bal Mukund, (2009) 12 SCC 161. It is also submitted by learned Prosecutor that this issue is pending before the Apex Court for final decision.



16. It is further contended that the Applicant was involved in the past in the FIR No. 394/2018 under Section 8/20 of NDPS Act, registered at Police Station Loni Kotwali, UP.

17. The Bail is further opposed on the ground that total recovery of 1347 grams of heroin was made from all the five accused, which is a commercial quantity and thereby rigors of Section 37 of NDPS, are attracted.

18. It is claimed that in fact, it is an Organized Drug Syndicate. The Applicant is a key link in an interstate narcotic drug distribution network, as evidenced by multiple disclosures/WhatsApp communications, CDR analysis and direct recovery from her person. Considering the nature and gravity of the offence and the role of the Applicant, there is a strong possibility that she may abscond or re-engage in similar conduct.

19. There is also a risk of her tampering with evidence or influencing the witnesses. Continued custody is necessary to ensure her presence during the trial. Though, the Chargesheet has been filed, but further investigations under Section 173(8) Cr.P.C is required to uncover the broader supply chain, money trails and additional co-conspirators involved in the network.

20. Reliance is placed on State of Kerala vs. Rajesh, (2020) 12 SCC 122 and Union of India vs. Rattan Malik @ Habul, (2009) 2 SCC 624 wherein it has been held that the Bail cannot be granted unless the twin conditions envisaged under Section 37 of NDPS Act, are satisfied.

21. Reliance has also been placed on Union of India vs. Ram Samujh, (1999) 9 SCC 429 wherein it was observed that the legislative mandate is required to be adhered and followed.

22. The Hon'ble Supreme Court of India in NCB vs. Mohit Aggarwal, Criminal Appeal Nos. 1001-1002/2022, Special Leave to Appeal (CRL.) No.



6128-29/2021 held that the expression “*reasonable grounds*” used in Clause (b) of Sub-Section (1) of Section 37 would mean credible, plausible and grounds for the Court to believe that the Applicant is not guilty of the alleged offence. It is submitted that the trial is at the initial stage and the Bail would hamper the trial and defeat the object of NDPS Act. Therefore, the Bail Application is opposed.

Submissions heard and the record perused.

23. As per the case of the Prosecution, the Disclosure Statement was made by Akhil Dass that he had received a call from the Applicant that she can supply the drugs. Accordingly, a trap was laid and the Applicant was arrested on 26.04.2024.

24. She is in judicial custody since then. Chargesheet against her already stands filed in the Court. Three co-accused namely, Ashfaaq, Ansar and Saif Ali Khan @ Kallu Khan, two of whom were found in possession of intermediate quantify and one from whom nothing was recovered, have already been admitted to Bail.

25. Though the State has claimed that in all 1097 grams of Heroin, had been recovered from all the accused persons, but it is the specific case that the Applicant was apprehended and 100 grams Heroin was recovered, which is an intermediate quality. It cannot be the case that where Heroin is recovered from the accused persons separately, it can be collectively attributed to the Applicant. There is no further necessity of keeping the Applicant in custody for the purpose of investigation. The trial is at the nascent stage and would take long to get concluded.

26. Considering all the aforesaid factors, the Applicant/Accused is granted Regular Bail, on the following terms and conditions:



2025:DHC:6549



- a) The Petitioner/Accused shall furnish a personal bond of Rs.35,000/- and one surety of the like amount, subject to the satisfaction of the learned Trial Court.
 - b) The Petitioner/Accused shall appear before the Court as and when the matter is taken up for hearing;
 - c) The Petitioner/Accused shall provide her mobile number/changed mobile number to the IO concerned which shall be kept in working condition at all times;
 - d) The Petitioner/Accused shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.
 - e) In case the Petitioner/Accused changes her residential address, the same shall be intimated to learned Trial Court and to the concerned I.O.
27. The copy of this Order be communicated to the concerned Jail Superintendent, as well as, to the learned Trial Court
28. The Bail Application is accordingly disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

AUGUST 05, 2025/RS