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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 24.11.2025*+ **BAIL APPLN. 2433/2025****CHANDERKALA**

.....Petitioner

Through: Ms. Nandita Rao, Senior Advocate with Mr. Anant Chittoria, Mr. Ankur Raghav, Mr. Amit Peswani, Mr. Prabhav Chittoria and Mr. Prashant, Advocates.

versus

**THE STATE OF NCT OF DELHI**

.....Respondent

Through: Mr. Manoj Pant, APP for the State with Ms. Kavita Awasthi and Mr. Ashish Bharmoria, Advocates.

**CORAM:****HON'BLE DR. JUSTICE SWARANA KANTA SHARMA****JUDGMENT****DR. SWARANA KANTA SHARMA, J. (Oral)**

1. By way of this application, the applicant seeks grant of regular bail in case arising out of FIR bearing no. 26/2024, registered at Police Station Crime Branch, Delhi for the commission of offence punishable under Sections 21/29 of the Narcotics Drug and Psychotropic Substances Act, 1985 (hereafter '*NDPS Act*').

2. Briefly stated, the facts of the present case are that on 04.02.2024, ASI Upender Kumar, posted at ANTF Office, Crime



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Branch, Daryaganj, had received secret information that one Chanderkala, aged about 60–65 years and resident of Mangolpur Kalan, Delhi, regularly brings large quantities of heroin/smack from Bareilly to Delhi, and that on the said day she, along with her son Virender, would be transporting a substantial quantity of contraband in a white Swift Dzire bearing registration No. UP16GT5132. After completing requisite formalities, a raiding team was constituted. At the spot near the road from Sarai Kale Khan to Rajghat, the said vehicle was intercepted. Three occupants were found inside the vehicle: (i) Virender, (ii) Bhupender (*driver*), and (iii) Chanderkala. The raiding team had introduced themselves and displayed their identification. A notice under Section 50 of NDPS Act was served upon Chanderkala after duly explaining her legal rights, which she declined to exercise. Thereafter, W/HC Uma Choudhary took possession of a red-and-white cloth bag held by Chanderkala, handed it to ASI Upender, and upon search, 400 grams of heroin was recovered. The recovered substance was sealed as parcel ‘A’ with seal ‘UK’. The applicant Chanderkala was produced before the learned Duty MM (Central), who permitted her arrest by a lady officer after sunset. In the meantime, co-accused Virender, and Bhupender remained detained at the spot under police supervision. Subsequently, notices under Section 50 of NDPS Act were served upon Virender and Bhupender; both declined their rights, and their cursory searches yielded no recovery. The vehicle was also searched after showing the search warrant, but no narcotic substance was recovered. A *rukka* was prepared, and the present FIR was registered



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against Chanderkala and Virender. Both were arrested, while the driver Bhupender was interrogated and found not involved in the trade of narcotic substances. Chargesheet has been filed along with FSL results confirming the substance to be heroin. During investigation, Chanderkala had disclosed one Raja Bihari and Sangeeta as receivers of the narcotic substances. On 13.08.2024, co-accused Jairam @ Raja Bihari, aged 50 years, was arrested under Section 29 of NDPS Act as a receiver. Investigation further revealed that 722 calls were exchanged between Raja Bihari and Chanderkala between 09.02.2023 and 04.02.2024. Charges have been framed under Sections 21/29 of NDPS Act against the applicant.

3. The learned senior counsel appearing for the applicant submits that the applicant has been in judicial custody since 05.02.2024, i.e., for about 1 year and 9 months. It is argued that the charge-sheet in the present case has already been filed and the investigation, insofar as the applicant is concerned, stands concluded; therefore, her further incarceration serves no useful purpose. The learned senior counsel further contends that at the time of arrest, the police officials did not conduct videography or photography of the proceedings pertaining to the alleged recovery and seizure of the narcotic substance, which casts serious doubt on the prosecution case. It is also alleged that written grounds of arrest were not communicated to the applicant. It is emphasized that the applicant is a 69-year-old senior citizen suffering from various age-related ailments. Accordingly, it is prayed that the applicant be released on regular bail.



4. On the other hand, the learned APP for the State submits that the contraband recovered in the present case is of commercial quantity, namely 400 grams of heroin. It is contended that the applicant Chanderkala and co-accused Virender are mother and son, residing at the same address, and both were transporting the heroin from Bareilly to Delhi in a taxi. Upon interception and search, 400 grams of heroin was recovered from the bag carried by the applicant. It is further pointed out that the bail application of co-accused Virender has already been dismissed by this Court. It is also stated that the applicant has a previous involvement of a similar nature in FIR No. 200/2016, under Section 21 of NDPS Act, P.S. Crime Branch, Delhi. Therefore, it is prayed that the present bail application be dismissed.

5. This Court has **heard** arguments addressed on behalf of the applicant as well as the State, and has perused the material on record.

6. In the present case, the secret information received by the police had specifically named the applicant Chanderkala as a supplier of heroin, brought from Bareilly to Delhi. Pursuant to the said information, the applicant was apprehended while travelling in a car along with her son i.e. co-accused Virender, and she was found carrying the red-and-white cloth bag from which 400 grams of heroin, i.e., commercial quantity, was recovered. The FSL report on record confirms that the recovered substance is heroin.

7. This Court further notes that during investigation, the applicant had allegedly disclosed the names of Raja Bihari and Sangeeta as



receivers of the narcotic substance. Co-accused Raja Bihari was subsequently arrested, and investigation revealed that 722 calls had been exchanged between him and the applicant between 09.02.2023 and 04.02.2024. Additionally, the applicant has a previous involvement of a similar nature in FIR No. 200/2016, registered for offence under Section 21 of NDPS Act, at P.S. Crime Branch, relating to commercial quantity of narcotic substances.

8. The bail application of co-accused Virender has already been dismissed by this Court *vide* order dated 12.03.2025 in BAIL APPLN. 690/2025. Another bail application (BAIL APPLN. 2972/2025) was dismissed as withdrawn on 15.10.2025.

9. In the aforesaid circumstances, and considering the recovery of commercial quantity of heroin from the applicant herein, the statutory bar under Section 37 of the NDPS Act stands attracted. The twin conditions under Section 37(1)(b)(ii) require the Court to form an opinion that (i) the accused is not *prima facie* guilty of the alleged offence, and (ii) the accused is not likely to commit any offence while on bail. As held by the Hon'ble Supreme Court in ***State v. B. Ramu***: 2024 SCC OnLine SC 4073, for a Court to consider a request for bail in a case involving recovery of commercial quantity of narcotic drugs or psychotropic substances, it has to necessarily record its satisfaction in terms of the conditions stipulated under Section 37 of the NDPS Act. In ***Union of India v. Prateek Shukla***: (2021) 5 SCC 430 as well as ***State v. Lokesh Chadha***: (2021) 5 SCC 724, it was held by the Hon'ble Supreme Court that the provisions of



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Section 37 of NDPS Act have to be applied strictly at the time of deciding bail application of an accused.

10. However, at this stage, considering the nature of allegations, the quantity of contraband recovered, the role attributed to the applicant and particularly in view of her previous involvement in a similar case, this Court cannot record such satisfaction.

11. As regards the contention that no videography or photography was done during the recovery proceedings, the same, in the facts of the present case, cannot be the sole ground for grant of bail, when the recovery, at this stage, stands supported by the seizure memo and the FSL report. Likewise, this Court is also of the opinion that the argument that written grounds of arrest were not communicated to the applicant is also of no assistance to the applicant. The remand order itself records that the applicant had been arrested pursuant to recovery of commercial quantity of heroin. It is also evident from the record that the applicant and co-accused were apprehended late at night, at about 11:30 p.m. on 04.02.2024. Since the arrest was to be effected after sunset, the police had sought specific permission at around 1:00 a.m. (05.02.2024) from the learned Duty Magistrate, before whom the applicant herein was produced. The order granting said permission clearly notes that the applicant had been apprehended with 400 grams of heroin, i.e., commercial quantity, pursuant to receipt of secret information. These facts demonstrate that the applicant was fully aware of the grounds on which she was arrested, and therefore, no case for bail is made out on this ground also.



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12. Considering the overall facts and circumstances of the case, the nature of allegations, the recovery of commercial quantity, the previous involvement of the applicant, and the statutory bar under Section 37 of the NDPS Act, this Court finds no ground to grant regular bail to the applicant at this stage.

13. Accordingly, the present bail application is dismissed.

14. It is, however, clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on merits of the case.

15. The order be uploaded on the website forthwith.

**DR. SWARANA KANTA SHARMA, J**

**NOVEMBER 24, 2025/ns**

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