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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 07.05.2025**+ **BAIL APPLN. 426/2025****CHOLPON BISHT**

.....Petitioner

Through: Mr. Aditya Aggarwal, Ms.
Kajol Garg, Mr. Naveen
Panwar and Mohd. Yasir, Advs.

versus

STATE GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Satish Kumar, APP with
ASI Sachin Singh, PS Crime
Branch.

CORAM:**HON'BLE MS. JUSTICE SHALINDER KAUR****SHALINDER KAUR, J (ORAL)**

1. By way of the present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) the petitioner seeks the grant of Regular Bail in FIR No.229/2024 dated 16.11.2024 for the offences punishable under Sections 20, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) registered at Police Station Crime Branch.

2. As per the prosecution, an intelligence input was received by ASI Sanjeev Kumar, stationed at Hauz Khas, Delhi, on 16.11.2024. At approximately 2:00 AM, an informant approached ASI Sanjeev Kumar with information that one Akash Bisht, a resident of Surat,



Gujarat, was habitually engaged in procuring *Charas* from Himachal Pradesh and supplying it across different locations, including Delhi. The informant disclosed that on the said date, Akash would be traveling to Delhi via the Singhu Border between 5:00 AM and 6:00 AM in a white Skoda car bearing registration number GJ-05-RQ-0047, and would subsequently proceed to Surat, Gujarat. It was further intimated that the *Charas* would be concealed within the vehicle.

3. Upon receiving the tip-off, ASI Sanjeev Kumar recorded the secret information on a plain sheet of paper and proceeded to interrogate the informant to verify its reliability. Thereafter, at 2:20 AM, he contacted Inspector Robin Tyagi telephonically and communicated the intelligence. Inspector Tyagi, after cross-verifying the information with the informant over the phone, escalated the matter to ACP/ARSC, Sh. Arvind Kumar, who directed that immediate legal action be taken.

4. The secret information was duly recorded in Daily Diary No. 2 at 3:10 AM, in compliance with Section 42 of the NDPS Act. A Raiding team, equipped with an I.O. Bag, Field Testing Kit, Official Seal "ARSC CRIME 2", Laptop, Printer, UPS, and Electronic Weighing Machine, navigated through Pushta Road, Ring Road ISBT, Majnu Ka Tila, Makbara Bypass, and GT Karnal Road, and reached Singhu Border at 4:45 AM. Efforts were made to enlist the assistance of public witnesses near ISBT, Kashmiri Gate and Bypass



GT Karnal Road, but none consented to participate, citing personal constraints.

5. A barricade was set up at GT Karnal Road, Singhu Border. At approximately 6:00 AM, a white Skoda car bearing registration number GJ-05-RQ-0047 was observed approaching from the Haryana side, however, the vehicle did not stop upon the signal given by the raiding party to halt and instead accelerated towards Delhi. The car was intercepted at the red light near Mahendra Park Gurudwara, Jahangirpuri Metro Station, Delhi.

6. The driver of the car, later identified as the co-accused Akash Bisht, along with the petitioner who was sitting in the car with the co-accused, were signalled to exit the vehicle. The raiding party introduced themselves and enquired about their identities.

7. In accordance with procedural requirements and the presence of a female accused, Woman Head Constable Uma Chaudhary was summoned to the scene. Notices under Section 50 of the NDPS Act were duly served upon both accused persons, apprising them of their right to be searched in the presence of a Gazetted Officer or a Magistrate. Both accused declined the option and recorded their refusal in writing.

8. A search of both individuals was conducted as per law; however, no contraband was recovered from their persons. Consequently, the vehicle was taken to the Ring Road Skoda Workshop for a detailed inspection. During the search, 539.5 grams of *Charas* was allegedly recovered from the car, concealed within



the subwoofer in the trunk and the headrest of the driver's seat. The contraband was seized, video graphed as per Section 105 of the BNSS, and sealed using the official seal "ARSC CRIME 2".

9. The case was registered as FIR No. 229/2024 under Sections 20, 25, and 29 of the NDPS Act at PS Crime Branch. The case property was counter-sealed by SHO/PS Crime Branch and deposited in the Malkhana of PS Crime Branch under Section 55 of the NDPS Act. The co-accused Akash Bisht was formally arrested, and the petitioner was taken into custody with the requisite permission from the Ld. Duty MM under Section 43(5) of the BNSS. The FSL Report, received on 10.12.2024, confirmed the recovered substance to be *Charas*.

10. Additionally, the Passport and E-Visa of the petitioner were verified and found to be genuine. The Embassy of Kyrgyzstan was duly informed of her arrest through the Ministry of External Affairs. Mobile phone location analysis revealed travel patterns of the accused to District Kullu, Himachal Pradesh and back to Delhi during the months of September and October 2024.

11. The petitioner moved a bail application before the learned ASJ, NDPS on 25.01.2025, which came to be dismissed, compelling the petitioner to file the present petition.

12. The learned counsel for the petitioner submits that the present case involves an *intermediate quantity* and therefore, the statutory bar under Section 37 of the NDPS Act would not apply to the present case. He places reliance on the following decisions:



- ***Soyab vs State (NCT of Delhi)*** Bail Appln.2626/2022
- ***Mahesh vs State (NCT of Delhi)***Bail Appln.161/2025
- ***Chhalimudin vs State (NCT of Delhi)***Bail Appln.3017/2024
- ***Chand Bala Kinnar vs State Govt. of NCT of Delhi***Bail Appln. 4431/2024
- ***Sunil vs the State of NCT of Delhi*** Bail Appln. 495/2022

13. The learned counsel submits that the Charge in the present case has not been framed and the petitioner has been incarcerated for a period of about 6 months. Further, the petitioner is having clean antecedents and the Jail Conduct of the petitioner is satisfactory. In light of these circumstances, the bail application be allowed.

14. Opposing the grant of bail, the learned APP for the state submits that the Charge has not yet been framed, thus, it is premature to consider the bail application of the petitioner. He further submits that the petitioner is a flight risk as she is not an Indian citizen.

15. Rebutting the said stand taken by the APP, the learned counsel for the petitioner submits that the passport of the petitioner has been seized and therefore, such risk does not arise.

16. Having heard the learned counsel for the petitioner and the learned APP for the state and perused the record, this Court, at the outset, may note that the learned APP for the state has conceded to the fact the quantity of *charas* allegedly recovered in the present case is an *intermediate quantity*.

17. From the decisions cited by the petitioner, it is evident that in a case involving *intermediate quantity*, the rigours of Section 37 of the



NDPS Act do not apply. Further, the nominal roll also reveals that the petitioner is not involved in any other cases and the jail conduct of the petitioner has been satisfactory. The prosecution, during the course of arguments, did not dispute that the trial is yet to commence and that there is no immediate prospect of its conclusion in the near future.

18. Further, it is the case of the petitioner that the petitioner and the co-accused are husband and wife and reside in the same apartment in Gujrat. The prosecution has raised apprehensions regarding the petitioner's status as a foreign national, positing that there exists a likelihood of abscondence, if released on bail. This Court, while not discounting the concerns raised, is also cognizant of the fact of being a foreign national cannot be a ground to deny bail, specifically when the passport of the petitioner has been seized.

19. In view of the aforestated observations, this Court is of the considered opinion that the continued incarceration of the petitioner and the trial being in its nascent stages, it would serve no fruitful purpose to keep the bail application pending.

20. Accordingly, in view of the entire conspectus of facts and circumstances as noted hereinabove, the petitioner is admitted to Regular Bail in the subject FIR bearing No. 229/2024 dated 16.11.2024 for the offences punishable under Sections 20, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) registered at Police Station Crime Branch, on her furnishing a personal bond in the sum of ₹ 30,000/- with two surety bonds of the like amount, subject to the satisfaction of the learned Trial Court /



CMM / Duty Magistrate and further subject to the following conditions:

- i. The Petitioner shall not leave the country without prior permission of the learned Trial Court.
- ii. The Petitioner shall report to the concerned/local Police once a week between 4:00 PM to 6:00 PM to mark her presence.
- iii. The Petitioner shall immediately intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change of residential address.
- iv. The Petitioner shall appear before the learned Trial Court as and when the matter is taken up for hearing.
- v. The Petitioner is directed to give her mobile number to the Investigating Officer and keep it operational at all times.
- vi. The Petitioner shall not contact, nor visit, nor offer any inducement, threat or promise to any of the Prosecution witnesses or other persons acquainted with the facts of case.
- vii. The Petitioner shall also not tamper with evidence nor otherwise indulge in any act or omission that is unlawful or that would prejudice the proceedings in the pending Trial.
- viii. In terms of the judgment of the Supreme Court in ***Frank Vitus v. Narcotics Control Bureau & Ors***, 2025 INSC 30, the State shall immediately communicate the order granting bail, to the concerned Registration Officer appointed under Rule 3 of the Registration of Foreigners Rules, 1992, who in



turn, shall communicate the order to all concerned authorities including civil authorities.

21. Further, no observations made above shall tantamount to be an expression on the merits of the petitioner's case and they have been made for the purpose of consideration of bail alone.

22. A copy of this Order be sent to the Jail Superintendent concerned for information and necessary compliance.

23. Accordingly, the present bail application stands disposed of.

SHALINDER KAUR, J

MAY 7, 2025/frk

Click here to check corrigendum, if any