

## Smt. Sachala Nayak vs State Of Nct Of Delhi on 18 April, 2022

**Author: Prateek Jalan**

**Bench: Prateek Jalan**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 3351/2021

SMT. SACHALA NAYAK

..... Petitioner

Through:

Mr. Ashutosh Kaushik,

Mr. Manish Vashisht, Advocates.

versus

STATE OF NCT OF DELHI

..... Respondent

Through: Mr. Amit Chadha, APP for the

State with SI Sanjay Kumar, PS-

NDLS.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% 18.04.2022 CRL.M.A. 7034/2022(for exemption) Exemption allowed, subject to all just exceptions. The application stands disposed of.

CRL.M.A. 7033/2022 (for reduction of security bond and grant for reduced personal bond along with affidavit) in BAIL APPLN.

1. This application has been filed by the applicant seeking reduction of the surety bond, and reducing the amount of the personal bond imposed by this Court vide an order dated 30.09.2021 by which the applicant was granted bail in connection with FIR No. 28/2021, dated 16.06.2021, registered at Police Station- New Delhi Railway Station under Section 20/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 [" NDPS Act"].

2. By the said order, the Court directed as follows: -

"The charge sheet in the matter has not yet been filed. In reply to a specific Court query, it is informed on behalf of the State that the applicant was arrested on 16.06.2021. In Digitally signed By:SHITU reply to another Court query, it is stated that there was no NAGPAL Signing Date:19.04.2022 police custody remand of the applicant taken. In these circumstances, in as much as, there is no commercial quantity prima facie recovered from the applicant in terms of the table to the NDPS Act, 1985 and with there being no previous adverse antecedents against the applicant, the applicant is allowed to be released on bail on filing a bail bond in the sum of Rs.50,000/- with two sureties of the like amount to the satisfaction of the learned Trial Court with directions to the applicant to the effect that:-

- she shall not leave the country under any circumstances; • she shall join the investigation of the case as and when required;

- she shall keep her mobile phone on at all times; • she shall drop a PIN on the google map to ensure that her location is available to the Investigating Officer; • she shall commit no offence whatsoever during the period that she is on bail in the instant case; • in the event of any FIR/DD Entry/Complaint lodged against the applicant, it would be open to the State to seek redressal in relation thereto, which application, if any, would be dealt on its own merits."

3. Mr. Ashutosh Kaushik, learned counsel for the applicant, submits that the applicant is not a resident of Delhi and belongs to a rural area in the state of Odisha. She has a total of three persons in her family, being the mother and two sisters. It is stated that she is illiterate, and is unable to furnish the bail bond in the sum of 50,000/- or any sureties in the aforesaid amount.

4. Mr. Amit Chadha, learned Additional Public Prosecutor for the State, appearing on advance notice, submits that the applicant and two other co-accused were, in fact, collectively in possession of over 50 kilograms of Ganja, which is a commercial quantity under the NDPS Act. He submits that this Court has held in various judgments that in NAGPAL circumstances of the present case, Section 29 of the NDPS Act would apply. Mr. Chadha further submits that as the applicant is not a resident of Delhi, the State apprehends that her release on personal bond would be insufficient to secure her presence before the Trial Court.

5. Having heard learned counsel for the parties, I am of the view that the only relief that can be granted to the applicant is of some reduction in the amount of the bail bond. The conditions have been imposed by the Court keeping in mind the nature of the offences alleged to have been committed by the applicant.

6. Having regard to the fact that the applicant has not been able to avail of the benefit of the order dated 30.09.2021, for a period of approximately seven months, the amount of bail bond is reduced from 50,000/- to 35,000/-. It is made clear that all other bail conditions, as imposed in the order dated 30.09.2021, remain unaltered.

7. As far as Mr. Chadha's contention regarding the possession of drugs in commercial quantity is concerned, the order dated 30.09.2021 proceeds on the basis that the applicant was found in possession of 19 kilograms of Ganja, which does not fall within the ambit of commercial quantity. It is not for this Court to re-examine the issue which is already been decided by a Co-ordinate Bench in the order dated 30.09.2021. However, this order will not prejudice the aforesaid argument of the State. In the order dated 30.09.2021 also, the Court records that the order will not amount to any expression on the determination of charges, if framed under Section 29 of the NDPS Act.

8. The application is disposed of with these observations.

PRATEEK JALAN, J APRIL 18, 2022/'Bp'/ NAGPAL Click here to check corrigendum, if any