

IA/5/22
SC No. 714/2021
State V. Gangandeep Singh
FIR No. 729/2021
PS S.P. Badli
Under Section 20/29 NDPS Act

01.04.2022

Present: Ms. Sweta Verma, Ld. Substitute Addl. P.P for the State.
Sh. Ankit Mutreja, Ld. Counsel for the applicant/accused

Reply is filed . Order of bail qua the co-accused is also filed .

Arguments heard on the application under Section 439 Cr.P.C for grant of regular bail to accused-applicant.

It is pleaded on behalf of the applicant that the accused/applicant has been falsely implicated in the present case and was arrested on 24.09.2021 and since then he has been lying in Judicial Custody. It further pleaded on behalf of the accused/applicant that the procedure followed by the raiding team at the time of alleged recovery of contraband is contrary to the procedure established by Hon'ble Delhi High Court in case titled **Basant Rai V. State, Crl. Appeal No. 909/2002 decided on 02.07.2012**. Further, the procedure adopted by the prosecution while collecting and after mixing the whole material in toto is against the procedure laid down. Reliance has also been placed on **Ahmed Hassan Muhammed V. The Customs Bail Application No. 3076/2020 dated 11.02.2021, Charlse Howell @ Abel Kom V. NCB Crl. Appeal No. 755/2016 dated 13.08.2018, Gaunter Edwin Kircher V. State of Goa 1993 (3) SCC 145, Gopal Das V. NCB Bail Application No. 3491 of 2020 dated 402.2021, Amani Fidel Chris V. NCB Crl. Appeal No. 1027/2015, Darshan Singh V. State SC No. 41/2018 decided on 09.06.2021, Noor Aga V. State of Punjab &Anr Crl. Appeal No. 1034 of 2008**.

It is further pleaded that no videography or photography was done at the time of alleged recovery. In this regard, reliance has been placed upon judgment viz; **Mool Chand Yadav V. State 2013 X AD (Delhi) and Ram Prakash V. State Crl. Appeal No. 1363/2014 dated 10.12.2014**. Further, no independent witness was joined in the investigation. It is further pleaded on behalf of the accused/applicant that the investigation qua the accused/applicant

in the matter has already been completed and he is no longer required for purpose of investigation. Chargesheet has also been filed. The co-accused Sumant has been admitted to bail by the order of Hon'ble High Court dated 31.03.2022. Hence, prayer is made for grant of regular bail to the accused/applicant.

Per contra, Ld. Substitute Addl. P.P for the State has vehemently opposed the bail application stating that as per the reply filed by the IO, on secret information on 24.09.2021, one person was detained at crossing near Sanjay Gandhi Transport Nagar with two trolley suit cases. On inquiry, his name was disclosed to be Gagandeep Singh (accused/applicant herein). He was apprised of the secret information and served upon with notice under section 50 of NDPS Act. ACP concerned was called at the spot and the search of his bags were carried out and during the said search 10.650 kg of ganja was recovered from one bag and 13.070 kg of ganja was recovered from another suit case. The contraband was seized and accused/applicant was arrested. The samples were taken by Ld. M.M. concerned and got deposited in Malkhana.

It is further submitted by Ld. Substitute Addl. P.P for the State that accused/applicant is the main carrier of ganja who used to get the same supplied to accused Sumant @ Monty. Further, the bar under Section 37 of NDPS Act is applicable in the present case as the recovery of contraband from accused/applicant falls under the commercial category. Further, the homogenizing of the samples has been done by the IO as per the procedure laid down under the NDPS Act.

Heard and considered.

The sole legal argument advanced in the present case is regarding the illegal procedure adopted by the Investigating Officer ASI Rajesh Kumar while seizure of the alleged six and seven packets separately. recovered from the accused/applicant which were kept in tow suitcase. As per the contents of the said seizure memo, the accused/applicant was allegedly carrying two suit cases which were having six and seven packets respectively with each bag having alleged contraband ganja. But the investigating officer got opened the each said packets. The six packets were homogenized and total weight of the contraband was found to be 10.770 kg which was put into a separate katta and converted into a pullunda and given mark A-1. Similarly, 7 packets were homogenized and its total weight was 13.190 kg which was put into a katta and converted into a pullunda and given Mark A-2. Thereafter, the proceedings under Section 52A Cr.P.C were got conducted before the Ld. MM on 25.09.2021

and two samples each were drawn from two separate kattas . Therefore, the said process to homogenizing of recovered Ganja and thereafter taking out the sample from the said homogenized parcels is irregular and illegal.

The legal position on the said aspect has been dealt with by Hon'ble High Court in judgments all judgments viz; **Basant Rai supra case, Ahmed Hassan Muhammed supra case , Charlse Howell @ Abel Kom supra case, Gaunter Edwin Kircher supra case Amani Fidel Chris surpa case , Darshan Singh supra case and Noor Aga supra case.** The relevant para-8 and 9 of judgment of Hon'ble DHC in case titled **Gopal Das (supra) case** are reproduced hereunder for the sake of convenience.

“8. The fact of the present case is that prosecution has mixed all the packets and thereafter, sent to FSL for examination, which is contrary to the procedure prescribed under the law.

9. The petitioner is in judicial custody since 20.01.2017. No doubt the recovered substance in the present case is of commercial quantity, however, the procedure prescribed is contrary to the dictum of this Court. This court is informed by learned counsel for the petitioner that no other case is pending to the credit of the petitioner and he is not likely to get involved in any other case during bail.”

In the present case in hand too, there is irregularity in the seizure by homogenizing the contents of 13 separate packets and thereafter drawing of samples from the said contents , which creates suspicion in the case of the prosecution. It is also reflected from record that the applicant is having clean antecedents and has no previous involvements. **The chargesheet is already filed . In view of these reasons I am of the considered view that accused has been able to satisfy the twin conditions as laid down in Section 37 of NDPS Act .**

Keeping in view the above facts and circumstances of the case, **the accused/applicant Gagandeep Singh is admitted to regular bail subject to furnishing a personal bond in the sum of Rs.50,000/- with one surety in the like amount on the following conditions:**

- i) That the applicant/accused shall not leave Delhi without prior intimation to the IO/Court either by written intimation or through SMS to IO on mobile phone in advance;
- ii) That the applicant/accused will supply all numbers of his functioning phones/mobile phones to the IO as well as about his whereabouts.

- iii) That the applicant/accused shall not tamper with the evidence;
- iv) That the applicant/accused shall not try to contact in any manner or threat the prosecution witnesses;
- v) That in case of change of his residential address, he shall intimate the court about the same;
- vi) That the applicant shall attend the Court on each and every date of hearing without fail.
- vii) In case of involvement in any criminal case during bail period the bail shall be liable to be cancelled.

(Gagandeep Singh)
ASJ/Spl. Judge (NDPS):
North, Rohini Courts, Delhi
01.04.2022

SC No.58310/2016
State V. Sanjay Kumar etc
FIR No. 524/2014
PS Jahangir Puri

01.04.2022

Present: Ms. Sweta Verma, Ld. Substitute Addl. P.P for the State
Accused Mukesh on bail.
Accused Sachin on interim bail.
Remaining accused persons produced from J.C.
Sh. K.S Verma, Ld. Counsel for all the accused persons.

PW Inspector Radhey Shayam, Ct. Rajender are absent despite service. Issue B/W in the sum of Rs.5000/- each against the said PWs through DCP concerned.

PW Mahender Singh is unserved as he is stated to have left the given address. The record reflects that directions were given to the IO vide order dated 17.11.2021 to ensure the presence of said witness. No steps have been taken by the IO nor he has cared to appear in the court.

Notice be issued to the DCP concerned for explaining the reasons of non-appearance of the I.O in the present case despite it being a case of murder.

Be listed for PE on 10.05.2022.

(Gagandeep Singh)
ASJ/Spl. Judge (NDPS):
North, Rohini Courts, Delhi
01.04.2022

SC No.. 714/2021 (DLNT01-009409-2021)
State V. Gagandeep etc
FIR No. 729/2021
PS S.P. Badli

01.04.2022

Present: Ms. Sweta Verma, Ld. Substitute Addl. P.P for the State
Both the accused persons produced from J.C.
Sh. Amit Muteja, Ld. Counsel for the accused persons.

Supplementary chargesheet qua FSL is already filed. Copy of the same is supplied to Ld. Counsel for the accused who seeks time to go through the same and advance arguments on charge. In view of the submissions, the matter is adjourned.

Be listed for arguments on charge on 01.06.2022.

(Gagandeep Singh)
ASJ/Spl. Judge (NDPS):
North, Rohini Courts, Delhi
01.04.2022

IA/1/2022
SC No. 230/2022
State V. Dinesh Pal @ Danny
FIR No. 600/2021
PS Shahbad Dairy
Under Section 21/25 NDPS Act

01.04.2022

Present: Ms. Sweta Verma, Ld. Substitute Addl. P.P for the State

Sh. Sunil Mehta and Madan Mehta, Ld. Counsel for the applicant/accused
I.O with case file.

Arguments heard on the application under Section 439 Cr.P.C seeking extension of interim bail to accused-applicant.

It is pleaded on behalf of the applicant that the accused/applicant was granted interim bail for a period of 20 days vide order dated 11.03.2022 on the ground of surgery of his wife for hysterectomy which was fixed for 13.03.2022. The accused/applicant could be released from Jail on 14.03.2022, but there was no body in the family who could arrange the admission of wife of the accused/applicant in hospital and arrange for blood and funds. The accused/applicant is required to get his wife admitted in the hospital for the said surgery on 08.04.2022. Hence, the application for extension of interim bail.

Per contra, Ld. Substitute Addl. P.P for the State has submitted that though the medical documents of wife namely Pooja of accused/applicant are verified, but there are other members in the family of the accused/applicant who can take care of the patient.

Heard and considered.

The accused/applicant was admitted to interim bail vide order dated 11.03.2022 for a period of 20 days for getting the surgery of his wife done. There is nothing on record to show that wife of the accused/applicant ever approached the hospital concerned from 13.03.2022 to 15.03.2022 despite ddate of surgery being 13.03.2022 and accused getting released on 14.03.2022 as stated . On 16.03.2022 only, she had approached the hospital concerned that too for check up, but due to some underline condition, no further action was taken. From 20.03.2022 to 26.03.2022, the scheduled operation could not be done due to said underline

condition of wife of the accused/applicant. Now, the said surgery is scheduled to be fixed on 08.04.2022. Thus, it is apparent from the record that even at present it cannot be said as to whether the said underline condition of wife of the accused/applicant has been controlled or not.

In view of the above facts and circumstances of the case, **I am of the considered view that no ground is made out for extension of interim bail to accused/applicant. Therefore, the application moved on behalf of the accused/applicant stands dismissed.**

(Gagandeep Singh)
ASJ/Spl. Judge (NDPS):
North, Rohini Courts, Delhi
01.04.2022

IA/1/22
SC No. 238/2020
State V. Baljinder @ Nanhe
FIR No. 247/2020
PS K.N.K Marg
Under Section 21 NDPS Act

01.04.2022

Present: Ms. Sweta Verma, Ld. Substitute Addl. P.P for the State.
Sh. Ankur Sharma, Ld. Amicus Curie for the applicant/accused
I.O with case file.

Arguments heard on the application under Section 439 Cr.P.C for grant of interim bail to accused-applicant.

It is pleaded on behalf of the applicant that the marriage of sister of accused/applicant is fixed for 10.04.2022 and therefore, presence of the accused/applicant is required for performing ceremonies in the marriage of his sister. Copy of marriage card has been annexed with the application. The accused/applicant has responsibility of his family and he is to make arrangements of the marriage of his sister. Hence, prayer is made for grant of interim bail to the accused/applicant.

Per contra, Ld. Substitute Addl. P.P for the State has vehemently opposed the bail application stating that accused/applicant has given wrong submission regarding marriage of his sister as on verification the marriage of daughter of his sister is to be performed. Further, there are other family members who can perform the ceremonies if any on behalf of the accused/applicant.

Heard and considered.

Ld. Counsel for the accused/applicant has conceded the mistake of mentioning the marriage of accused/applicant's sister whereas the marriage of her Bhanji (sister's daughter) is to be performed. Even if the said mistake is ignored and the application is taken on merits, the fact remains that as per the reply filed by the IO, there are two other brothers of the accused/applicant who can perform the ceremonies, if any, on behalf of the accused/applicant. Thus, the presence of the accused/applicant is not at all necessary in the marriage to perform the ceremonies as claimed.

In view of the above facts and circumstances of the case, I am of the considered view that no ground is made out for grant of bail to accused/applicant. Therefore, the application moved on behalf of the accused/applicant stands dismissed.

(Gagandeep Singh)
ASJ/Spl. Judge (NDPS):
North, Rohini Courts, Delhi
01.04.2022

Bail Application No. 734/2022
State V. Tasleem
FIR No. 0781/22
PS Bhalswa Dairy
Under Section 21/25/29 NDPS Act

01.04.2022

Present: Ms. Sweta Verma, Ld. Substitute Addl. P.P for the State.

Sh. Umesh Kumar and Ms. Sundari Rawat, Ld. Counsel for the
applicant/accused
I.O with case file.

Arguments heard on the application under Section 439 Cr.P.C for grant of regular bail to accused-applicant.

It is pleaded on behalf of the applicant that the accused/applicant has been falsely implicated in the present case and has been lying in Judicial Custody since 09.11.2021 . It is further pleaded on behalf of the accused/applicant that the true fact of the case are that accused/applicant was visiting to Saharanpur with accused Arshad Ali on 8.11.2021 to negotiate Barber Service at proposed marriage of Arshad Ali at his in-laws place. On that day, Delhi Police apprehended a car at underpass of Muzaffarnagar in which the applicant was travelling in good faith with accused Arshad Ali. Therefore he has moved application u/s 91 CrPC. No recovery has been effected from the possession of the accused/applicant and he has been arrested only on the ground that he being part of the consiracy under Section 29 of the NDPS Act. The police brought the accused/applicant to Delhi from some other route. Nothing incriminating material was found in the possession of the accused/applicant and no PC remand of the accused/applicant was taken. The investigation qua the accused/applicant is complete and he is no longer required for purposes of investigation.

In support of his arguments, Ld. Counsel for the accused/applicant has relied upon the following judgments:

(I) **State by (NCB) Bengaluru V. Pallulabid Ahmad Arimutta & Anr. 15 2022 (2)**
Scale

(II) **Sujit Tiwari V. State of Gujarat & Anr (2020) 13 SCC 447**

(III) **Raju Premji V. Customs NER, Shillong Unit (2009) 16 SCC 496**

(IV) **N.R Mon V. Mohd Nasimuddin (2008) 6 SCC 721**

Per contra, Ld. Substitute Addl. P.P for the State has vehemently opposed the bail application stating that as per the reply filed by the IO, accused/applicant alongwith accused persons namely Arshad Ali and Arshad Khan were arrested on 09.11.2021 with 01 KG heroin while they were carrying the same in a taxi car No. UP 25 DT 5525 driven by accused Arshad Khan from the area of PS Bhalsawa Diary . Accused Arshad Ali, on interrogation, disclosed that he had procured the contraband from one Asif of Bareilly, U.P for supplying it to customers. On the basis of said disclosure statement, accused Asif @ Shoeb was arrested on 16.11.2021 with 300 gram of heroin.

It is further submitted that all the accused persons including accused/applicant herein were apprehended together from the spot while they were carrying 1 kg of heroin. All the said three accused persons are resident of same locality of Bareilly, U.P and were acting in connivance with each other in commission of the offence of crime. The accused/applicant was paid by co-accused Arshad Ali for delivery of contraband.

Heard and considered.

The plea taken by the accused/applicant that he had no knowledge about the material in the possession of co-accused Arshad Ali which was in the hand bag is a fact-in-issue and at this stage, there is no material on record which probablizes the said version of the accused/applicant. Even otherwise, the investigation qua the role of the accused/applicant herein in the present case is still under investigation. Chargesheet is yet to be filed. Furthermore, the bar under Section 37 of the NDPS Act is applicable in the present case as the quantity of heroin recovered from the possession of the accused persons including accused/applicant herein falls under the category of commercial quantity. The accused/applicant has failed to overcome the bar, the onus of which is upon him and to satisfy the twin conditions imposed as mandated in judgment viz; **Union of India through NCB Lucknow V. Nawaz Khan, Crl. Appeal No. 1043/2021.**

The judgments relied upon Ld. Counsel for the accused/applicant are not applicable to the present case being distinguishable on facts. The allegations are serious against the accused/applicant.

In view of the above facts and circumstances of the case, I am of the considered view that no ground is made out for grant of bail to accused/applicant. Therefore, the application moved on behalf of the accused/applicant stands dismissed.

(Gagandeep Singh)
ASJ/Spl. Judge (NDPS):
North, Rohini Courts, Delhi
01.04.2022

Bail Application No. 864/2022
State V. Suman Chadha and Komal Chadha
FIR No. 158/2016
PS EOW
Under Section 420/467/468/471/120B IPC

01.04.2022

Present: Ms. Sweta Verma, Ld. Substitute Addl. P.P for the State.

Sh. Himanshu Bhasin and Neeraj Kumar, Ld. Counsel for the applicants/accused persons.
I.O with case file.

Arguments heard on the application under Section 438 Cr.P.C for grant of anticipatory bail to accused persons-applicants.

It is pleaded on behalf of the applicant that the accused persons/applicants have been falsely implicated in the present case and are apprehending arrest by the police officials. It is further pleaded on behalf of the accused persons/applicants that the allegations in the present FIR are already matter of investigation by CBI where the accused persons/applicants have already joined the investigation and have never been arrested.

It is further pleaded that the present FIR has been registered upon the direction under Section 156 (3) Cr.P.C issued by Ld. CMM vide order 03.10.2016. For about 6 years until 29.03.2022, the applicants/accused persons were neither called to join the investigation nor have ever been informed about the registration of the present FIR. The accused/applicants through Whatsapp came to know about the present FIR and a notice under Section 41A of Cr.P.C has been issued. The accused persons/applicant are ready to join the investigation. Hence, prayer is made for grant of anticipatory bail to the accused/applicant.

Per contra, Ld. Substitute Addl. P.P for the State has vehemently opposed the bail application stating that as per the reply filed by the IO, the present FIR was registered in compliance of order dated 3.10.2016 passed by Ld CMM on application under Section 156 (3) Cr.P.C filed by complainant Rakesh Bansal. It was alleged by the complainant that he is the director of M/s Om Drishian International Ltd and accused persons are Directors of M/s Parul Polymers Pvt Ltd ,they had business relations. The accused persons induced the

complainant to jointly purchase Flat No. F-12 Kailash Colony, New Delhi for Rs. 4 cores for which they jointly availed a loan of Rs. 3.5 crores from Central Bank of India in November,2013. It is alleged during the paper work of availing loan, the accused persons in connivance with bank officials forged and fabricated some documents for enhancing credit limit qua some seprate loan and thus, caused a loss of Rs. 32 crores. During the course of investigation, documents related to loan have been collected from Central Bank of India and on analysing them several shortcomings have been found in the guarantee documents of Shri Rakesh Bansal Complainant qua credit account no. 3155151236 . The accused/applicants wrote a letter dated 24.04.2014 to the bank wherein they offered to keep collateral of already mortgaged property to enjoy 20 crores FB and FB limit full changeability.

During further investigation, efforts were made to join the accused persons by serving notice under Section 41 A Cr.P.C but the accused persons/applicants have not joined the investigation. The custodial interrogation of the accused persons/applicants is warranted.

Heard and considered.

The crux of the arguments on behalf of the applicants is that they were never called to join the investigation for the last six years and for the first time, notice has been served upon them on 29.03.2022. As far as the said aspect of delay is concerned, it is stated by the IO that as per the record two addresses of the applicants were there in the file but they were not available at the said addresses having shifted. Fresh address of the applicants was found out by him from the record of the CBI which is also investigating one connected case against the applicants and the chargesheet is already filed by CBI. The said averment on behalf of the IO seems to be corroborated from the record and the applicants new address is also mentioned in their application. Even otherwise, mere delay cannot be the ground for benefit being granted to the accused persons/applicants.

In the present case in hand, serious allegations are against the accused/applicants regarding forgery of crucial documents which ultimately led to loss of around Rs.32 crores of Central Bank of India. The order of Hon'ble NCLT filed by the applicants also rather corroborates the allegations of serious fraud committed with the public sector bank. The investigation in the present matter has been lethargic as is reflected from the record .If indeed no whereabouts of applicants were not available with them , they why no coercive steps were in this regard . The investigating authority also needs to look into the matter of connivance of the complainant as is reflected from the NCLT records. Custodial interrogation of the accused

is warranted in the present case. The allegations are serious against the accused/applicant.

In view of the above facts and circumstances of the case, **I am of the considered view that no ground is made out for grant of bail to accused/applicant. Therefore, the application moved on behalf of the accused/applicant stands dismissed.**

(Gagandeep Singh)
ASJ/Spl. Judge (NDPS):
North, Rohini Courts, Delhi
01.04.2022

