

**IN THE COURT OF SHRI PRANJAL ANEJA,  
SPECIAL JUDGE (NDPS)-02, CENTRAL DISTRICT,  
TIS HAZARI COURTS, DELHI**

**SC 736/2023  
STATE Vs. MEGHRAJ @ DEEPAK  
FIR No. 157 /2023  
PS Crime Branch-Central Delhi**

**13.12.2024**

**ORDER ON CHARGE**

1. I have already heard arguments on the point of charge addressed on behalf of accused Raj Kumar and the Ld Addl. PP for the State. The co-accused Meghraj @ Deepak and Sandeep Kumar @ Sonu have already conceded to the charge. I have also perused the record.

2. It was argued by the Ld counsel for accused Raj Kumar that there is no recovery of any contraband material from the accused and he has been arrested merely on the disclosure statement of co-accused persons. Ld counsel further argued that there is no monetary transaction between the accused Raj Kumar and co-accused and merely call detail records without any recorded conversation cannot be a ground to frame charge against the accused as no grave suspicion is raised against him with respect to the commission of the offence in question. Ld counsel further argued that the Hon'ble High Court of Delhi in a catena of judgments including **Shyam Gupta and others Vs. State Crl. Rev. P. 421/2019 decided on 13.03.2023** observed that the only evidence against petitioner there is the CDR which may create a suspicion but not a great suspicion and if one examines the CDR *sans* disclosure statement then there is nothing on record to link

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the said calls to the recovery in question and there is no other material placed on record by the prosecution in the charge-sheet with respect to the involvement of accused with the recovery of contraband and thus, the Hon'ble High Court of Delhi discharged the petitioner/ accused therein. Ld counsel relied upon the rulings titled as Shyam Gupta & Ors. Vs. State, Crl. Rev. NO. 421/2019, decided on 13.03.2023; Dilawar Balu Kurane Vs. State of Maharashtra, 2002 (2) SCC 135; P. Vijayan Vs. State of Kerala & Arn., Crl. Appeal No. 192/2010; Mamta Sapra Vs. State of Govt. of NCT of Delhi, Crl. Rev. P. 294/2023; State of Himchal Pradesh Vs. John Peter, Himachal HC 29.05.2023, Jibrail Mondal Vs. The State of Madhya Pradesh & Ors., MP HC 12.04.2023; Anil Patel Vs. State of Madhya Pradesh, MP HC 08.02.2023; State Vs. Pankaj Gupta (Discharge order of Sarvotham and Jasbir Singh); Vaibhav Choudhary (04.07.2023 Patiala courts)l Srikant Ranganathan (18.02.2022 KKD Courts) and Anutosh Kumar Singh (15.03.2022 KKD Courts).

3. On the other hand, Ld Addl. PP while opposing the submissions of Ld counsel, argued that there is CDR connection between the accused Raj Kumar and co-accused which shows his involvement in the commission of the offence and therefore, charge needs to be framed against him.

4. In the present case, one HC Nitin Malik alongwith staff departed for collecting information of organized crime in the vicinity of Majnu Ka Tila, Delhi on 29.06.2023 and when they reached near PWD office on 29.06.2023 at around 1:30 PM, HC Nitin saw a person in suspicion condition carrying a gray colour bag on his back and after few minutes a motorcycle with a person riding on it approached to that suspect and both of them conversated with each other for few minutes,

after which the suspect person took out a parcel of brown colour and give it to the motorcycle rider. HC Nitin and his team got alert and shiftly apprehended both those persons while they were exchanging the parcel. The parcel was recovered from the motorcycle rider who was identified as Sandeep Kumar @ Sonu and the parcel supplier was identified as Meghraj @ Deepak. Upon checking the parcel, it was found to contain 1.558 Kg. Charas and the same was duly seized. Upon interrogation of accused Meghraj@ Deepak he disclosed that he used to procure Charas from Himachal from sources and supplied the same to accused Sandeep who is a person of accused Raj Kumar @ Anuj as directed by the sources who directly deal with the main receiver namely Raj Kumar @ Anuj resident of Faridabad, Haryana. In disclosure of accused Sandeep @ Sonu, he stated that he used to work for accused Raj Kumar @ Anuj and receives Charas from Meghraj @ Deepak on behalf of accused Raj Kumar @ Anuj and sells it at different places in Delhi NCR in retail to some consumers of Raj Kumar @ Anuj. Seven days PC remand was also obtained of both accused Meghraj @ Deepak and Sandeep @ Sonu to trace the accused persons/ source but nothing could be traced. Raids were conducted to trace out accused Raj Kumar @ Anuj but he absconded after which notice U/s 67 NDPS Act was served upon him through his wife and later NBWs were also taken against him and process U/s 82 CrPC also initiated against him. Accused Raj Kumar @ Anuj was lately arrested on 29.11.2023 from his H. No. 77, Sector 10, DLF, Faridabad and interrogated. On 30.11.2023, six days PC remand of accused Raj Kumar @ Anuj was obtained to arrest the source of the recovered Charas and he was taken to various places in Himachal Pradesh but nothing could be found or recovered. It is further mentioned in the



charge-sheet that as per call detail records between accused Raj Kumar @ Anuj, Meghraj @ Deepak and Sandeep @ Sonu, they are in close proximity during the delivery of contraband which establishes that they run a syndicate in dealing with contraband.

5. From the perusal of the charge-sheet, what comes out is that there are disclosure statements of co-accused Sandeep @ Sonu and Meghraj @ Deepak in which they have named the accused Raj Kumar @ Anuj to be the receiver of the contraband. Admittedly, there is no recovery of contraband from the accused Raj Kumar @ Anuj who has been lately arrested based upon the disclosure statement of co-accused persons. In **Toofan Singh Vs. State of Tamil Nadu, AIR 2020 SC 5592**, the Hon'ble Apex Court has observed that the confession recorded U/s 67 NDPS Act would not be admissible as evidence. Now, the only material in the charge-sheet against the accused Raj Kumar @ Anuj is the Call Detail Records (CDR) between him and co-accused Sandeep @ Sonu and Meghraj @ Deepak. Admittedly, there is no recorded conversation with respect to those CDRs and neither there are any whatsapp communication photographs to point out involvement of accused Raj Kumar @ Anuj in the recovery of the contraband in the present case. The contraband i.e. heroin has been recovered from the possession of co-accused Meghraj @ Deepak. In **Shyam Gupta and others Vs. State Crl. Rev. P. 421/2019 decided on 13.03.2023**, the Hon'ble High Court of Delhi relied upon the judgment of the Hon'ble Supreme Court of India in **Dilawar Balu Khurane Vs. State of Maharashtra, (2002) 2 SCC 135** in which it was observed that while framing charges the Judge has the power to ascertain whether the materials on record disclosed 'grave suspicion' against the accused. It was further observed in the aforesaid

judgment of Hon'ble Supreme Court of India that in exercising powers U/s 227 Cr.P.C. the Judge has the power to shift and weigh the evidence for the limited purpose of finding out whether or not a prime facie case against the accused has been made out and where the materials placed before the Court disclosed grave suspicion which has not been properly explained, the Court will be fully justified in framing charge but if by and large two views are equally possible and Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully justified to discharge the accused, and in exercising such jurisdiction U/s 227 Cr.P.C., the Judge cannot act merely as a Post Office or a Mouth Piece of the Prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the Court.

6. The Hon'ble High Court of Delhi in **Shyam Gupta** (supra) observed as under :-

“15. Applying the aforesaid principle to the facts of the present case, it is clear that the only evidence against petitioner no. 3 is the CDR, which may create a suspicion but not a grave suspicion. If one examines the CDR sans disclosure statement then there is nothing on record to link the said calls to the recovery in question. There is no other material placed on record by the prosecution in the charge-sheet to support the allegations qua the present petitioner with respect to her involvement with the contraband allegedly recovered from the co-accused persons. No recovery was effected from the petitioner no. 3 or at her instance.”

7. In the aforesaid case of **Shyam Gupta** (supra), there were three accused, who were in touch with each other on regular basis and there were call detail records (CDRs) between them. The Hon'ble High Court of Delhi after observing the above discharge the petitioner therein. Similarly, in **Mamta Sapra Vs. The State Govt. of NCT of**

**Delhi, CRL. Rev. P. 294/2023 decided on 01.07.2024** by Hon'ble High Court of Delhi, it was observed that there was no recorded conversation and allegation is solely made on the basis of disclosure statement which is not admissible and the allegations though raised suspicion but does not disclose grave suspicion so as to justify framing of charges against the petitioner.

8. In the facts of the present case also, the only material against the accused Raj Kumar @ Anuj is the CDR connection without any recorded conversation or any whatsapp photographs/material. There are only disclosure statements of co-accused and as per settled law the same are not admissible in evidence as there is no recovery from the accused Raj Kumar @ Anuj. In **Hari Charan Kurmi Vs. State of Bihar, 1964 AIR 1184**, the Hon'ble Supreme Court of India observed that in dealing with a case against an accused person, the Court cannot start with the confession of co-accused person and it must begin with other evidence adduced by the prosecution and after it has formed its opinion with regard to quality and effect of the said evidence, then it is permissible to turn to the confession in order to receive assurance to the conclusion of guilt which the judicial mind is about to reach on the said other evidence. As already observed above in light of the pronouncements of the Hon'ble High Court of Delhi, there is no independent material against the accused Raj Kumar @ Anuj and no grave suspicion arises so as to framed charge against him as to the commission of the offence U/s 20/29 NDPS Act. Accordingly, for these reasons, the accused **Raj Kumar @ Anju** stands discharged in this case.

9. Since, co-accused Meghraj @ Deepak and Sandeep Kumar @ Sonu have already conceded to the charge, hence, formal

charges against remaining accused persons namely Meghraj @  
Deepak and Sandeep @ Sonu be framed on the NDOH.

**(PRANJAL ANEJA)**  
Special Judge, NDPS-02,  
Central, THC, Delhi/13.12.2024<sub>(kk)</sub>