

**IN THE COURT OF ASJ/SPECIAL JUDGE/NDPS
PATIALA HOUSE COURTS, NEW DELHI**

Presided by: Sudhir Kumar Sirohi, DHJS

SC No. 172/2021

Crime No. VIII/64/DZU/2020

NCB Vs. Zeeshan Abbas

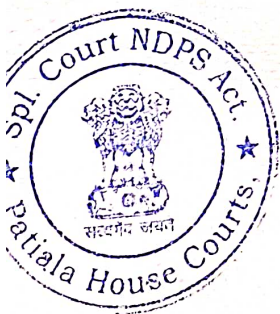
SUDHIR KUMAR SIROHI
Special Judge NDPS Act
Room No. 35, P. Building
Patiala House Courts,
New Delhi

24.08.2023

Present: Mr. Mukesh Malik, Ld. SPP for NCB alongwith JIO
Rajendra Kumar.

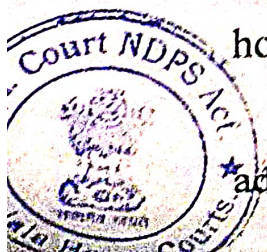
Mr. Aditya Aggarwal and Mr. Naveen Panwar, Ld.
counsels for accused/applicant.

Brief facts of the case are that on 24.12.2020 on the information parcel bearing AWB No. 6989411575 lying at DHL Express Pvt. Ltd, Rama Road, Near Kirti Nagar Metro Station, New Delhi destined for USA was checked and search of the said parcel resulted in recovery of Zolplex- 10 (Zolpidem tartarate) tablets with the description- I.P- 10 mg, Batch No. 10921, Manufactured by ELKEM PHARMACEUTICALS PVT. LTD, Plot No. 816/1, PO Rakanpur, TA Kalol, Distt. Gandhinagar, Gujarat. Mfg date: Dec, 19 and Expiry date: Nov, 22 and total number of 4550 tablets and the weight of the tablets without the strips or packing materials (on calculation) came to be 568.75 grams, which is a commercial quantity beyond the ceiling of 250 grams. The tablets/contraband were seized as per law in presence of independent witnesses. Efforts were made to trace the culprits and in a follow up on the case, notice u/S 67 of the NDPS Act was issued in the name of Mr. Naveen Kumar and he tendered his voluntary statement under section 67 of NDPS Act. In his statement, the Naveen Kumar stated that he currently is working



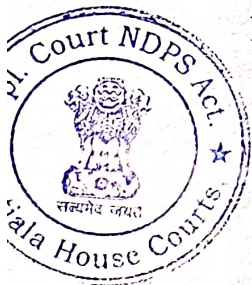
for MAWW Logistics. Naveen Kumar stated in his statement that prior to this, he had worked with Blue Bell Logistics at its Bhikaji Cama Place office and during this time he come to know of one Zeeshan Abbas who is also working for Blue Bell Logistics at its Lucknow office. He stated that they were in touch professionally during that time and that after he had left his job at Blue Bell Logistics about 2 years ago. He further disclosed that Zeeshan Abbas introduced him to a person in October, 2020 whose name he does not know, as such saved his number as Roger Pharma. Naveen Kumar further stated in his statement that in conference calls set up by Zeeshan Abbas, the three of them agreed to send international parcels containing medicines. Naveen Kumar revealed that for every parcel he would send forth from India to abroad, he would receive Rs. 1500. Naveen Kumar also admitted that he had already sent about 30 parcels abroad to various countries. Co-accused Naveen Kumar further admitted that in connection with the parcel bearing AWB. No. 6989411575, he had received a call from Zeeshan Abbas stating that a parcel is being sent to him for further preparation and forwarding abroad. Co-accused Naveen Kumar further disclosed that as he was pre-informed by Zeeshan Abbas about the contents of the parcels in question. Consequent on the seizure of 568.75grams Zolplex- 10 (Zolpidem tartarate) tablets and based on statement of Naveen Kumar recorded under section 67 of NDPS Act regarding his knowledge and willful participation in the commission of the crime, he was put under arrest at 2330 hours on 29.12.2020.

In follow up of the case and based on the information admission of the co-accused Naveen Kumar, Zeeshan Abbas was



served Notice u/S 67 of the NDPS Act, 1985 and he was directed to tender his statement under section 67 of NDPS Act in connection with the seizure effected on 24.12.2020. In response to the notice under section 67 of NDPS Act Zeeshan Abbas tendered his voluntary statement wherein Zeeshan Abbas admitted his involvement in the commission of the crime and that he had been sending parcels through Naveen Kumar at the behest of one Mr. Justin. Present applicant/accused Zeeshan Abbas admitted his involvement in sending the parcels abroad and also stated that he had sent medicines to his family outside India and as such is aware of the whole process and requirements. He further admitted that in October, 2020 he had introduced a person to the accused Naveen Kumar, whom he refers to as Justin which collaborates with the admission of co-accused Naveen Kumar regarding the suspect Roger Pharma. When asked, accused Zeeshan Abbas stated that he had only talked to accused Naveen Kumar after he was approached by Justin. Consequent on the seizure of 568.75grams Zolplex- 10 (Zolpidem tartarate) tablets and based on the admission of the accused Zeeshan Abbas in his statement recorded under section 67 of NDPS Act regarding his knowledge and willful participation in the commission of the crime, he was put under arrest on 31.12.2020. Grounds of his arrest were informed to him and information about his arrest was given to his wife.

During investigation, CDR of both the accused persons were obtained from the service provider and from the perusal of the CDR of the accused Naveen Kumar and Zeeshan Abbas it is revealed that they were in constant touch over phone with suspect Justin/ Roger Pharma. On analysis of the CDRs, it



has been seen that both the accused persons were much in contact since prior to the arrival/ introduction of the suspect Justin/ Roger Pharma. The documents seized on 24.12.2020, verification of the copy of the adhar card No. 2002-2901-4340 was attempted through the UIDAI website. However, the same was not listed and thus it is considered a fake/ forged document. Further statement of the passport holder (of passport no. K2947239) Shiraz Hasan S/o Hasan Miyan R/o 390/84, Rustam Nagar, Lucknow UP and on being shown the documents seized, he stated that the aadhar card seized with the contraband, bearing his name and his photo has been used to forge the document. He produced his original aadhar card which bears a different enrolment/ identification number which is 4261-0612-8399. The same when looked up in the UIDAI website showed authenticity. He stated that he had worked for Blue Bell Logistics in UP and that he had submitted a copy of his passport No. K2947239 as proof of address as at the time he was not in possession of an aadhar card. He went on to claim that the photograph on the forged aadhar card is copied from his passport copy. He also submitted an FIR copy which he had registered for the forgery and misuse of his documents. Thus it is clear from the facts and circumstances that both the accused persons forged documents for sending parcels abroad for sending contraband. It is crystal clear that the accused Naveen Kumar and Zeeshan Abbas hatched a criminal conspiracy with one unidentified Justin/ Roger Pharma and also abetted amongst themselves to commit the offence resulting in the trafficking of Zolpidem from India to abroad and with the common intention of illegally trafficking psychotropic substances, by illicitly and illegally exporting the contraband



intentionally to outside countries while being keenly aware of the fact that the same is an offence punishable under NDPS Act. The identity and whereabouts of Justin/ Roger Pharma is yet to be traced.

Ld. counsel for accused argued that the accused has been falsely implicated in this matter. It is further argued by the Ld. Counsel for accused that no recovery has been effected in this matter and the only alleged evidence against the present accused/applicant is the CDR connectivity of the present accused/applicant with co-accused Naveen and alleged Justin who has not been arrested in this matter. It is further argued by the Ld. Counsel for accused that there is no transcription or any intercepted call between the accused persons. It is further argued by the Ld. Counsel for accused that the prosecution is also relying upon Statement u/s 67 NDPS Act of present accused/applicant as well as of co-accused Naveen Kumar but nowhere in the whole case of prosecution any recovery has been effected on the basis of said statements u/s 67 NDPS Act, the same is hit by judgment of *Tofan Singh Vs. State of Tamil Nadu Criminal Appeal No. 152/2013 (Hon'ble Supreme court)*. It is also argued by Ld. Counsel for accused that as per case of prosecution, accused Naveen used to take Rs. 1500/- as commission for booking the parcel and the parcel in question was provided by alleged Justin/Rodger Pharma but what was the share of the present accused/applicant and benefit of present accused/applicant in booking the parcel has not been brought on record by the NCB, therefore, the present accused/applicant is nowhere involved in the recovery of the parcel in question. It is also argued by the Ld. Counsel for accused that the CDR is



matter of trial, therefore, accused has crossed the bar of Section 37 NDPS Act and may be admitted to bail.

Ld. Counsel for accused relied upon the following judgments/orders:

- a) *Haresh Rawal Vs. NCB Bail Appl No. 117/2021 decided on 03.06.2021 by Hon'ble High Court of Delhi*
- b) *Mohd. Irshad Vs. State of NCT of Delhi Bail Appln. NO. 994/2022 decided on 05.05.2022 by Hon'ble High Court of Delhi*
- c) *Sanjay Negi Vs. State Bail Appln. No. 302/2022 decided on 13.07.2022 by Hon'ble High Court of Delhi*
- d) *Amit Ranjan Vs. NCB decided on 23.05.2022 by Hon'ble High Court of Delhi*

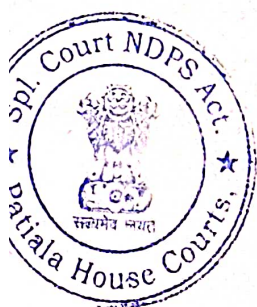
Ld. SPP submits that there is a recovery of commercial quantity of narcotic medicines hence definite bar u/s 37 NDPS Act over release of accused on bail. The said parcel was booked by co accused Naveen Kumar who revealed that the said parcel was sent by Zeeshan Abbas having the knowledge of narcotic medicines inside them and this fact of their acquaintance and interaction is corroborated through mobile call records. Ld. SPP submits that accused Zeeshan Abbas in his statement told that he has been sent the parcels to co accused Naveen Kumar at the behest of one Mr Justin and this fact is also corroborated through mobile connection between accused persons. Ld. SPP submits that the conspiracy is hatched in secrecy and therefore there cannot be explicit proof of the same. It can be inferred through the multiple interactions between the both, and accused Justin is still absconding and not traceable and enquiry qua him is



still pending. I.d. SPP submits that no ground made out to release the present accused on bail.

Submissions of all the parties heard. Judgment/order perused.

Admittedly, no recovery was effected from present accused/applicant and the case against the present accused/applicant is that he introduced one Justin (not arrested yet) to the accused Naveen Kumar for booking the parcel and there is CDR connectivity between the accused Naveen, Justin and the present accused/applicant. As per the case of NCB earlier accused Naveen and present accused/applicant were working in the same company i.e. Blue Bells Logistics and they were known to each other in professional terms, accordingly, the calls between them in the absence of any transcription does not favour the case of NCB at this stage. The next alleged evidence against accused/applicant is statement u/s 67 NDPS Act of the applicant and co-accused Naveen Kumar. No recovery was effected on the basis of the statement u/s 67 NDPS Act, the statement u/s 67 NDPS Act is hit by judgment of *Tofan Singh* (supra). CDR is a matter of trial (reliance has been placed upon *Amit Ranjan Vs. Narcotics Control Bureau 2022 SCC OnLine Del 1532*), accordingly, at this stage, accused has crossed the bar of section 37 of NDPS Act and there is no other case against accused, therefore, there are reasonable grounds to believe that accused is not guilty of offence and not likely to commit offence again. Accused/applicant is no more required for the purpose of custodial interrogation, accordingly, accused Zeeshan Abbas is admitted to bail on furnishing personal bond in the sum of Rs.

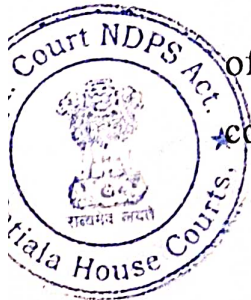


1,00,000/- with one surety of like amount and subject to following conditions:-

1. he will provide his mobile numbers to the IO.
2. he will keep his mobile phones on at all times.
3. he will deposit his passport in the court during the period of bail and if he does not have passport then to file the affidavit in this regard in the court.
4. he will daily drop a PIN on the google map to ensure that his locations are available to the Investigation Officer of the case every week during the period of trial.
5. he will inform the IO about change of his residence/address, if any
6. he will mark his attendance in the NCB every first Monday of each month trial is completed.
7. he will not leave India under any circumstances without prior permission of trial court.
8. he will not commit any offence whatsoever during the period that he is on bail in the instant case.
9. In the event of there being any FIR/DD Entry/complaint lodged against the applicant/accused it would be open to the NCB to seek cancellation of bail of the accused.

Accordingly, bail application of accused stands disposed

off. Copy of this order be given dasti and be also sent to Jail for communicating to accused.



— Sd —

(Sudhir Kumar Sirohi)
ASJ/Spl. Judge, NDPS/N. Delhi
24.08.2023

Special Judge NDPS Act
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New Delhi