

Bail Application of Vikas Chauhan

FIR No. 0429/2021

PS Pandav Nagar

State Vs. Vikas Chauhan

U/s 20/25/29 NDPS Act

30.10.2021

रीतेश सिंह

REETESH SINGH

अति. सत्र न्यायाधीश-2, विशेष न्यायाधीश (एन.डी.पी.सी.) पूर्वी

ASJ-2+Spl. Judge (NDPS), East

कमरा नं. 311

Room No. 311

कड़कड़ूमा न्यायालय, दिल्ली

Karkardooma Courts, Delhi

Pursuant to order No. 700/RG/DHC dated 30.09.2021 issued by Hon'ble High Court of Delhi, the proceedings in this matter have been conducted through physical hearing.

Present: Sh. Naveen Panwar, Ld. Counsel for the applicant/accused Vikas Chauhan.
Accused Vikas Chauhan present in person.
Sh. IUH Siddique, Ld. Addl. PP for the State.

This is an application under section 439 Cr.P.C. praying for grant of regular bail filed by the applicants/accused Vikas Chauhan. Reply to the bail application has been filed by the IO. Submissions have been addressed.

Sh. Naveen Panwar, Ld. Counsel has submitted that the previous bail application of applicant/accused Vikas Chauhan was dismissed by this court on 20.09.2021. It is submitted that by the same order dated 20.09.2021 the first bail application of co-accused Shubham Sharma was also dismissed by this court. Thereafter, accused Shubham Sharma approached the Hon'ble High Court of Delhi vide Bail Application no. 3719 of 2021 which was permitted to be withdrawn by the Hon'ble High Court on 08.10.2021 with liberty to move a bail application afresh before this court. It is submitted that thereafter co-accused Shubham Sharma moved a second bail application before this court which was allowed by order dated 21.10.2021.



It is submitted that the allegations against the present applicant/accused Vikas Chauhan are the same as made against Shubham Sharma who has been granted bail. It is submitted that no previous connection or association of accused Vikas Chauhan has come on record during investigation with the other co-accused persons namely Asif, Golu and Nitin.

It is further submitted that the applicant/accused Vikas Chauhan was granted interim bail by order dated 28.09.2021 to enable him to appear in the examinations conducted by National Institute of Open Schooling (NIOS). The said interim bail was extended by this court by virtue of the orders passed by the Hon'ble High Court in WPC No. 4291 of 2021 titled Court on its Own Motion Vs State (GNCT of Delhi). It is submitted that by order dated 22.10.2021, the Hon'ble High Court directed all under trial prisoners who had been granted interim bail to surrender as per a schedule and by order dated 27.10.2021, this court in terms of the orders of the Hon'ble High Court directed Vikas Chauhan to surrender on 11.11.2021.

It is submitted that at present the applicant/accused Vikas Chauhan is on interim bail till 11.11.2021 and is required to surrender on the said day in compliance of the orders of the Hon'ble High Court dated 22.10.2021. It is submitted that even though the applicant/accused Vikas Chauhan is not in judicial custody at this stage but his application for regular bail can be considered by this court in terms of the judgment of the Hon'ble Supreme Court in the case of Sundeep Kumar Bafna Vs State of Maharashtra & Anr. CrI. App. No. 689/2014 decided on 27.03.2014 as per which the applicant/accused Vikas Chauhan can be taken into custody by this court after which his prayer for regular bail can be proceeded with.



At this stage, an application has been filed by the applicant/accused Vikas Chauhan, who is present in person before this court, praying that he may be taken into custody in terms of the judgment of the Hon'ble Supreme Court in the case of Sundeep Kumar Bafna Vs State of Maharashtra & Anr (supra).

On the other hand prayer for bail is opposed by Ld. Addl. PP for the State on the ground that the previous bail application of Vikas Chauhan was rejected on 20.09.2021 and there is no change in circumstances in his favour since then. It was submitted that the weight of the recovered Ganja is 70 kg which is commercial quantity and bar under section 37 of the NDPS Act is attracted.

As per reply filed to the bail application, secret information was received on 17.08.2021 at about 20:00 hours about Golu, Nitin @ Pehalwan and Asif being involved in procuring of Ganja from Orissa and transporting it to Delhi and that they would arrive between 09:30 and 22:00 hours in vehicles Swift DL6CS 7579 and Wagon-R HR 76E 2469 with other person via NH-9 from Sarai Kale Khan towards Akshardham Mandir to supply Ganja in the area of Kalyan Puri/ Trilok Puri, East, Delhi. Raiding team was constituted. At about 21:45 hours one grey coloured Wagon-R HR 76E 2469 coming from Sarai Kale Khan and going towards Ghazipur Delhi was intercepted while the Swift Car bearing no. DL 6CS 7579 coming from behind stopped out of which three persons stepped out and managed to flee. The persons occupying the Wagon-R vehicle were identified as applicant/accused Vikas Chauhan and co-accused Shubham Sharma. After serving notice under section 50 of the NDPS Act, ACP operations arrived and search of the said persons and the Wagon-R was carried out. Two



white plastic katta were found on the rear seat of the said vehicle containing cartons. Cartons were opened. First carton was found containing 12 packets wrapped in khakhi coloured plastic tape. Each packet was opened with the help of a knife and were to be found containing Ganja. The second carton was also opened and was found to be containing 13 packets and each of these packets upon opening were found to be containing Ganja.

The Swift Vehicle was also searched which was found containing one carton which upon opening had several packets containing Ganja. The total weight of Ganja recovered from both the vehicles is 70 kg. The reply of the IO states that the co-accused Shubham Sharma and applicant/accused Vikas Chauhan had disclosed that Anil Kumar, father of Vikas Chauhan was requested by M/s V.R.L International Logistics International to deliver a consignment against payment of Rs. 3,500/-. Applicant/accused Vikas Chauhan and Shubham Sharma who was working in the shop of Vikas Chauhan went to the office of M/s V.R.L International Logistics International to collect the parcels on the instructions of Anil Kumar. There they met Asif, Golu and Nitin (described as main culprits in the reply) who instructed Vikas Chauhan about the route to be taken for Delhi. While Asif, Golu and Nitin took one parcel in the Maruti Swift Car, Shubham Sharma and Vikas Chauhan took two parcels in their Wagon -R Vehicle. The reply to the bail application states that Joginder Singh, employee of M/s V.R.L International Logistics International has confirmed that Anil Kumar, father of Vikas Chauhan was a vendor of M/s V.R.L International Logistics International.

The reply to the bail application states that on

03.09.2021

accused Asif @ Naeem was arrested and during

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interrogation he disclosed that he was part of a drug syndicate along with Manish Kumar, Sanjay, Soni @ Golu, Nitin @ Pehelwan and Veer Singh. He further disclosed that he along with those persons used to procure Ganja from Raju, Pradeep and Vikram from the remote areas of Bhubneshwar, Orissa, packed the same in parcels and used to deliver the same to Delhi NCR through M/s V.R.L International Logistics International.

During the course of submissions on the bail application, query was put by this court to the IO as to whether any past association between applicant/accused Vikas Chauhan and the other arrested accused Asif @ Naeem was found to which the IO replied in the negative. It was submitted that accused Asif @ Naeem in his disclosure statement has stated that he had requested M/s V.R.L International Logistics International to arrange for transportation of two parcels and that it was M/s V.R.L International Logistics International who had arranged for delivery through Shubham Sharma and Vikas Chauhan.

At the time of rejection of the previous bail application of Vikas Chauhan and Shubham Sharma, it had been submitted that the role of Shubham Sharma and Vikas Chauhan was still under investigation. As per the reply to the bail application, it has been confirmed by Joginder Singh, employee of M/s V.R.L International Logistics International that Anil Kumar, father of applicant/accused Vikas Chauhan was their vendor. Thus, in the past Anil Kumar has been delivery parcels for M/s V.R.L International Logistics International against payment. As stated by the IO, no previous association of Vikas Chauhan with co-accused Asif @ Naeem was found and that accused Asif @ Naeem has disclosed that it was on

his asking that M/s V.R.L International Logistics International



arranged for transportation of parcels involving Shubham Sharma and Vikas Chauhan.

On the basis of the same submissions, co-accused Shubham Sharma was admitted to bail by this court by order dated 21.10.2021.

The present applicant/accused Vikas Chauhan is the son of Anil Kumar who is the vendor of M/s V.R.L International Logistics International, employee of whom has confirmed that it was on their request that Anil Kumar was asked to arrange for transportation of parcels in pursuance of which Vikas Chauhan along with co-accused Shubham Sharma had come to their office to collect the parcels.

As regards the current status of Vikas Chauhan is concerned, he is required to surrender on 11.11.2021 in terms of order dated 22.10.2021 of the Hon'ble High Court in the case of Own Motion Vs State (GNCT of Delhi). Accused Vikas Chauhan has surrendered before this court in person. He is thus in the custody and control of this court in terms of the ratio as laid down by the Hon'ble Supreme Court in the case of Sundeep Kumar Bafna Vs State of Maharashtra & Anr. There is therefore, no impediment in consideration of his regular bail application.

The total weight of the recovered Ganja is 70 kg which is above commercial quantity. As per section 37 (1) (b) (ii) of the NDPS Act no person accused of an offence punishable for offences involving commercial quantity shall be released on bail unless the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

The facts of the present case point towards a distinct




possibility of applicant/accused Vikas Chauhan not knowing anything about the contents of the parcels which he had gone along with co-accused Shubham Sharma to collect from the office of M/s V.R.L International Logistics International on the asking of his father, Anil Kumar, vendor of M/s V.R.L International Logistics International. Further, IO has stated that no past association of Vikas Chauhan with Asif, Golu and Nitin (described as main culprits in the reply to the bail application) has been found.

In these facts and circumstances, this court is of the opinion that there are reasonable grounds within the meaning of section 37 (1) (b) (ii) of the NDPS Act for believing that Vikas Chauhan is not guilty of such offence and that he is not likely to commit any offence while on bail.

For the reasons recorded above, this bail application is allowed. I hereby admit applicant/accused Vikas Chauhan on bail subject to him furnishing a Personal Bond in the sum of Rs. 50,000/- with one surety of the like amount. A copy of this order be sent to the jail Superintendent for information.

Order dasti.




(Reetesh Singh)
Special Judge NDPS
East/KKD Courts/30.10.2021