



\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Reserved on: 12.01.2024
Pronounced on: 30.01.2024

+ **BAIL APPLN. 3542/2023**

PRAJWAL ELROY RAJ

..... Petitioner

Through: Mr. V.C. Shukla and Mr. Tarun
Gulia, Advocates

versus

GOVT OF NCT OF DELHI

..... Respondent

Through: Mr. Manoj Pant, APP for the
State with SI Imran Khan, NDR,
Crime Branch, New Delhi

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

JUDGMENT

SWARANA KANTA SHARMA, J.

1. The present bail application under Section 439 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been filed by the applicant seeking regular bail in FIR bearing no. 255/2022, dated 03.11.2022, registered at Police Station Crime Branch, Delhi for offences punishable under Sections 20/21/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act').

2. Briefly stated, the facts of the present case are that a secret information was received that on 03.11.2022, two persons Jatin Wasan and Vinay were going to supply drugs in Sarojini Nagar market in a black car. Based on this information and with due permission from the



appropriate authorities, a raiding team was formed and the raid was conducted. During the personal search of the accused persons, 250 grams of *charas* was recovered from accused Jatin, and 150 grams of *charas* was recovered from Vinay. Thereafter, both the accused persons were arrested and the present FIR was registered. During the course of investigation, accused Jatin had disclosed that he had been receiving *charas* and other narcotic substances from Anurag Thakur, Akash Gupta and Nihar Bakshi, who are the suppliers of drugs in the Delhi NCR region. Thereafter, on information from another secret informer, a raid was conducted near Pramod Mahajan Marg, PVR road, near Malviya Nagar Metro Station where Akash Gupta, Nihar Bakshi and Anurag Thakur were apprehended and on being searched, 120 grams *charas* was recovered from the possession of Akash Gupta, 110 grams *charas* and 50 ecstasy pills weighing 27.45 grams were recovered from the possession of Nihar Bakshi, and 100 ecstasy pills weighing 54.9 grams and 23 grams of M.D. were recovered from the possession of Anurag Thakur. The recovered contraband from the accused persons was seized and the accused persons were arrested on 04.11.2022.

3. During the course of investigation, accused Anurag Thakur had disclosed that he was involved in supply of narcotic substances including ecstasy tablets in the Delhi-NCR region and the transactions were done through use of cryptocurrency and the syndicate was active through Wickr App. It was found that accused Anurag had an account on Binance wallet, which he used for making payments through cryptocurrencies for narcotic substances. Details from Wickr App as well as Binance crypto-platform were obtained and analysed. Notices



were also sent to crypto trading platform Kucoin. During analysis, it was found that in one of the transaction, a payment of 1830 USDT was transferred to accused Anurag Thakur by the present applicant Prajwal Elroy Raj, who had his account with Kucoin. KYC details were obtained from the trading platform Kucoin which showed that applicant was an account holder in the above-mentioned transaction with the accused Anurag Thakur. In this transaction, the amount was sent by “vvsthc” i.e. the applicant herein to “czar8008” i.e. co-accused Anurag Thakur. During investigation, it was revealed that the contraband which was recovered from accused Anurag was supplied to him by the present applicant and by one Faizan Ali. The present applicant had ordered these narcotic substances through dark web and had imported them to India, whereas the co-accused Faizan Ali had supplied it to different parts in the country through dark web. During investigation, mobile phone of Faizan Ali was seized and analysed, and it was found that a suspected shipment of narcotic substances was shipped from USA to New Delhi. A letter in this regard was sent to custom department. On Delhi Airport, it was confirmed that the said consignment contained 15.8 kgs of narcotic substance i.e. marijuana. It was also revealed during investigation that another huge shipment of contraband was being shipped to Chennai Airport from Lufthansa cargo, which was later found to be 54 kgs of hydroponic weed i.e. cannabis. From further analysis of mobile phone of Faizan Ali, it was found that the above mentioned consignments belonged to the present applicant and had been sent to Faizan Ali for sale and supply in different parts of the country. On 14.03.2023, the applicant herein was arrested from



Mangalore, Karnataka. As per prosecution, during investigation it was revealed that the applicant was actively involved in supply of narcotic substances in the country and the recovered ecstasy tablet from accused Anurag Thakur as well as accused Nihar Bakshi was sent to Anurag Thakur by “vvsthe” on Wickr app i.e. by the applicant herein. The applicant had also disclosed that he had bought the tablets from a person namely “mr taffy” on Wickr app and he had met “mr taffy” on “dread” platform at dark web, and the payment was made by him and Faizan Ali through cryptocurrency. During investigation, the applicant was also interrogated about the recovered shipment of 15.8 kgs of marijuana at Delhi Airport and he disclosed that this consignment was purchased by him from “mr taffy” on Wickr app and he also disclosed the same about the shipment of 54 kgs of marijuana that was caught at Chennai Airport. In both these consignments, the payments were made through cryptocurrency and these consignments were camouflaged in different packaging to avoid getting caught. He had disclosed that these consignments used to get cleared through customs with the help of co-accused Faizan Ali, who then used to store it in his unit at Mysore. Thereafter, on getting orders through Wickr app, they used to supply the narcotic substances through private courier companies in different parts of the country. Co-accused Faizan Ali could not be arrested since he had absconded. The chargesheet as well as supplementary chargesheet in this case was filed after completion of investigation, and the matter is now fixed for arguments on charge on 13.02.2024.



4. The bail application of the applicant was dismissed *vide* order dated 09.10.2023 passed by learned ASJ, the relevant portion of which reads as under:

“...The allegations against the accused are that present accused/applicant imported the ecstasy pills and MDMA through Dark Web and supplied them to accused Anurag Thakur through accused Faizan from whom the commercial quantity of contraband was recovered. The kucoin wallet applicant shows that the present accused/applicant used the Aadhar Card of one Mr. Sunil Kumar for opening the account and the same hash transaction which was in the account of present accused/applicant is present in the binance wallet of accused Anurag Thakur, therefore, this shows that there are financial transaction between the present accused/applicant and accused Anurag Thakur. The present accused/applicant used cypto wallet, Wickr app and Dark Web for doing his drug business so as to remain away from the clutches of law forcing agencies and the same wickr app was used by the accused in the crime no. 28/2020 of E and N Crime Police Station Mangluru City. The present accused/applicant opened the kucoin wallet on the basis of other person document and even the photograph of present applicant with ID of another person namely Sunil Kumar is available while opening cryto wallet. The offence of conspiracy with respect to narcotic substance is hatched in secrecy, whose direct evidence is difficult, therefore, at this stage, it can not be said that there are reasonable ground to believe that accused is not guilty of offence and is not likely to commit the offence again. There is definite bar of Section 37 NDPS Act, accordingly, the bail application of accused Prajwal Elroy Raj is dismissed...”

5. Learned counsel for the applicant/accused argues that no incriminating material/substance has been seized or recovered from the applicant and he has been falsely implicated in this case based on the alleged inadmissible statements of the accused Anurag Thakur. It is further submitted that there is no material available on record to



establish that user name “vvsthc” on Wickr App is related to the applicant herein. It is further argued that the prosecution has nothing to prove that the present applicant had imported the ecstasy pills and MDMA through dark web and supplied them to accused Anurag Thakur. Learned counsel further submits that the rigours of Section 37 of NDPS Act would not apply to the present applicant as there was no recovery from him. Further, the prosecution has not found any chat or communication in the phone of the accused Anurag Thakur to prove that the present applicant was active on Wickr app and used to communicate with accused Anurag Thakur. It is also contended that the prosecution has failed to show any money received by the present applicant *qua* the alleged supplying of the contraband recovered from the accused Anurag Thakur. It is stated that the applicant has been in judicial custody since 28.03.2022 and therefore, it is prayed that present bail application be allowed.

6. Learned APP for the State, on the other hand, vehemently argues that the present accused/applicant was actively involved in the supplying of contraband in the country after importing them from outside. It is further argued that the recovered ecstasy tablets from accused Anurag Thakur and accused Nihar Bakshi were sent to accused Anurag Thakur, by ‘vvsthc’ on Wickr App by the present accused/applicant, through co-accused Faizan. It is submitted that from the mobile phone of co-accused Faizan, who absconded from clutches of police, the incriminating evidence regarding the consignments sent by the present applicant was found. It is further argued that present accused/applicant used the ‘kucoin’ wallet for transfer of crypto



currency for the alleged sale to the accused Anurag Thakur, and when the applicant had opened his account on 'kucoin' wallet, then with his live photo, he had used the Aadhar card of one Mr. Sunil Kumar and the same transaction hash with respect to currency in the account of present accused/applicant was also found in the 'binance' wallet of accused Anurag Thakur, which shows the financial link with respect to sale of alleged MDMA and ecstasy. It is argued that applicant herein is a professional drug dealer, and a member of well-organized drug syndicate, active in the whole country and has previous involvement also. It is submitted that bar under Section 37 of NDPS Act is applicable in this case. Thus, it is prayed that present bail application be dismissed.

7. This Court has heard arguments addressed by learned counsel for the applicant and learned APP for the State, and has perused material on record.

8. A perusal of record reveals that the present applicant/accused had carried out direct "crypto" transactions with co-accused Anurag Thakur. During the course of investigation, it was also revealed that the contraband recovered from co-accused Anurag i.e. 100 ecstasy pills weighing 54.9 grams and 23 grams of M.D., were supplied to him by the present applicant/accused Prajwal Elroy Raj, who used to carry out transactions in the name of "vvsthc" on Wickr app. There is material on record to show financial transactions between the present applicant and co-accused Anurag Thakur, carried out through use of kucoin wallet and binance wallet. It has also been revealed that the present applicant had ordered narcotic substances through Dark Web and imported them



to India, while co-accused Faizan Ali had supplied it to whole of India through the means of dark web. The mobile phone data analysis of the co-accused Faizan had revealed that huge shipments of narcotic substances including 15.8 kgs marijuana seized at Delhi Airport and 54 kgs of hydroponic weed i.e. cannabis at Chennai Airport, belonged to the present applicant/accused Prajwal Elroy Raj, and the same was to be sent to co-accused Faizan Ali for sale and supply in the whole country.

9. The present case reveals that by using modern technology, cryptocurrency and dark web, new ways have been adopted by the accused persons to escape the clutches of law. However, investigation by the investigating agency could locate the details of crypto-wallets, Aadhaar cards, and the routes used by the present accused for trading in narcotic substances. The aforesaid evidence collected during the investigation is sufficient at this stage to point out towards the larger conspiracy and the role played by the applicant herein in trade of narcotic substances, as well as being the source of recovered commercial quantity of contraband from co-accused Anurag Thakur. The bar under Section 37 of NDPS Act would thus, be attracted in the present case.

10. Having observed so, the material at this stage is sufficient to establish, *prima facie*, that applicant is guilty of offence under the NDPS Act. It is also admitted that the applicant is already involved in another case under NDPS Act, in which he is already on bail. Therefore, the fact that while being on bail in another case of similar nature, he has been involved in this case too does not persuade this



Court to grant him bail on the premise that he will not indulge in similar activity, once he is released on bail.

11. Accordingly, the present bail application stands dismissed.

12. It is also clarified that nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

13. The judgment be uploaded on the website forthwith.

SWARANA KANTA SHARMA, J

JANUARY 30, 2024/at