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

+ **BAIL APPLN. 3059/2024 & CRL.M.(BAIL) 1629/2024**

SURAJ SHAT

.....Petitioner

Through: Mr. M.S. Khan with Mr. Prashant
Prakash, Ms. Qausar Khan and Mr.
Rahul Sahani, Advocates.

versus

THE STATE NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State
with SI Ashish Sharma, ISC, Crime
Branch, Chanakyapuri, New Delhi.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

06.03.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483 of the BNSS has been filed seeking regular bail in case FIR No. 59/2024, under Sections 274/275/276/308/406/420/120B/34 of the IPC, registered at P.S. Crime Branch.
3. The case of the prosecution as per status report 21.10.2024, authored by Mr. Ramesh Chander, ACP, Inter State Cell/Crime Branch, Chanakyapuri, Delhi, against the present applicant is as under: -

“2. That the facts of the case are that on 09.03.2024, on the basis of credible secret information regarding a person namely Vipnil Jain @ Bablu is procuring the empty vials and other raw material of anticancer injections such as Keytruda, Opdyta, Opdivo etc. from his associate namely Parvez Malik and using it to prepare spurious anticancer medicines. He used to sell/supply these spurious



medicines with the help of his other associates namely Neeraj Chauhan, Tushar Chauhan etc. Such spurious anti-cancer medicines are a menace to the society as well as threat to the cancer patients. Separate teams were formed to unearth the whole nexus and nab the culprits.

3. That since, the information was about a syndicate indulged in manufacturing of spurious medicines, accordingly, the Drugs Department, Govt. of NCT of Delhi was informed and they were asked to join the team. On 11.03.24, the joint team of Crime Branch and Drugs department conducted raid at Flat No 1101, Block -2, Eleventh Floor, CSP Units DLF Capital Greens, 15 Shivaji Marg, Moti Nagar, New Delhi 110015, where two persons namely Vipphil Jain S/o Late Sh. Pawan Kumar Jain Rio H No T 21, Gali No 8, Gautampuri, New Seelampur, Bhajanpura, Delhi 110053 and Suraj Shat S/o Kartik Shat, Rio G 315/5, Gali No 15, West Karawal Nagar, North East Delhi- 110094 were found present. They (Vipphil&Suraj) were found filling the empty vials labeled as Nivolumab 10 mg/ml (OPDYT A) and PEMBROLIZUMAB INJECTION (KEYTRUDA) with the liquid of Fluconazole injection USP2mg/ml (Forcan) and dextrose with a needle and syringe followed by sealing the vials with the sealing and capping machine kept in the said premises. Both the alleged persons were asked to produce any drug license required for manufacturing/sale/stocking or distribution of the drugs kept in the said premises. They were also failed to produce/submit/show purchase records/bills of various drugs and items found stocked in the aforesaid premises. On thorough search of the premises, both the alleged persons were found possessing/installed various drugs/items/machinery/labels/empty vials/labeled empty vials/rubber caps etc. The team of Drug Inspectors took three sets of samples drawn from the vials recovered from the said premises for lab testing. They also prepared detailed spot memo.

4. That the recovered 02 vials of Nivolumab 10 mg/ml (Opdyta), 02 vials of Pembrolizumab Injection (Keytruda) and 02 Fluconazole Injection USP2g/ml (forcan) were taken as samples by the 1.0. Empty/filled vials, packaging box, leaflets, vial rubber cap, vials aluminum cap etc. recovered from the spot, were taken into police possession through seizure memo. Prima facie, as per the recovery of the unauthorized stocking of adulterated drugs and on



the basis of the spot memo prepared by the Drug Inspectors, the present FIR was registered and further investigation was taken up. Vipphil Jain and Suraj Shat were apprehended and subsequently arrested in the case. Simultaneous raids were also conducted at different locations by the separate teams and a huge quantity of spurious anti-cancer injections, empty vials, packaging boxes, leaflets, vial rubber caps, vials aluminum caps etc. were recovered and number of persons apprehended.

5. That during the course of investigation further raids were conducted and 12 accused persons were arrested. Cash amount of Rs 89.5 Lakhs & US \$ 19,000 and a huge quantity of spurious anti-cancer injections, empty vials, packaging boxes, leaflets, vial rubber caps, vials aluminum caps etc worth about Rs. 04 Cr. have been recovered from different places and the same were taken into police possession as per procedure. It was learnt that the accused persons have accumulated huge wealth through crime proceeds.

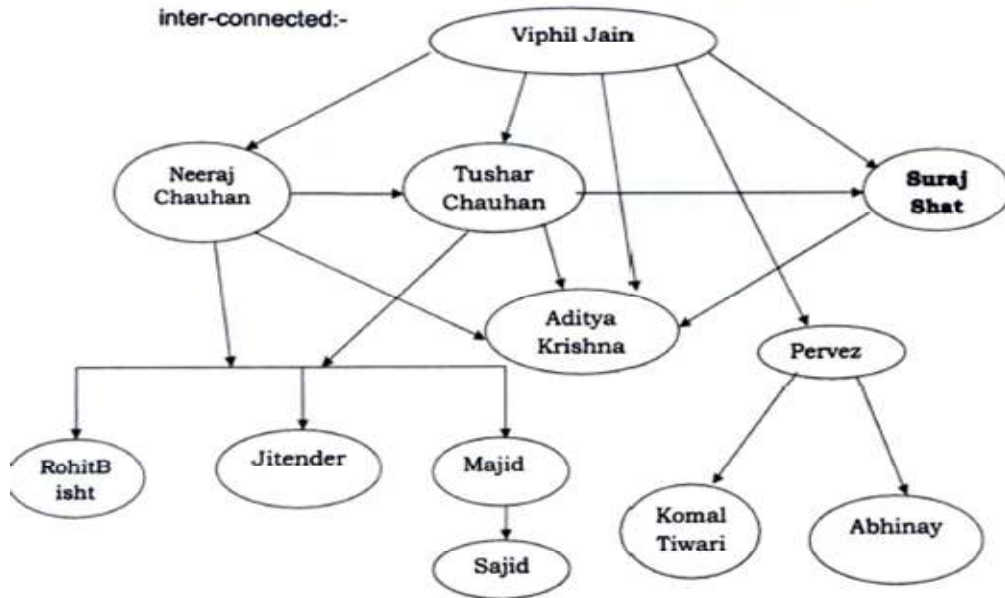
6. That During the course of investigation, thirty four (34) bank accounts having balance amount of rupees 2.51 Cr. of the accused persons have got frozen. Total 17 mobile phones of the accused persons have also been seized and taken into police possession. One fortuner SUV worth rupees 58 lacs by accused Vipphil Jain was also taken in police possession. Vipphil Jain had also invested a huge amount to purchase a flat worth rupees 4.5-5 Cr. in DLF, Moti Nagar, the same investment was also got frozen. The whatsapp chats of the accused persons were extracted and analyzed. The chats of accused persons are incriminating and denote that they are well connected to each other and they were doing this ill-perceived business with complete knowledge without acknowledging that adverse and life threatening impact to the patients.

7. That as per the interrogation of accused persons, version of the victims/cancer patients, recovery of empty/filled vials and other circumstantial evidences, it surfaced that the accused persons misappropriated the filled and empty anti-cancer injections issued to the patients in their respective hospitals, therefore, section 406 IPC was added. Accused persons were refilling the empty anti-cancer vials with anti-fungal injections Fluconazole which had adverse life threatening impact on the lives of cancer patients. Since the accused persons had sound experience of medical profession,



they have knowledge and they were well aware of the fact that their acts may endangered the lives of many cancer patients. Keeping in view of the facts emerged during the investigation section 308 IPC was also added in the present case.

8. That following is the chart depicting how the accused persons are inter-connected:-



The modus operandi and involvement of the accused persons:

9. That the accused Viphil Jain along with Suraj Shat are the kingpin of this racket. Viphil Jain had experience of 15 years of pharmacy profession. He had previously worked at medical stores at Bhagirath place pharmacy market. Suraj Shat was also working with him since last 4-5 years. Suraj Shat also had in hand experience of medical profession as he had also worked at medical stores at Bhagirath place. Meanwhile in early 2023, Viphil Jain came with the idea of supplying anti-cancer injections as these were not easily available in the market. These injections are also very expensive. He thought of procuring these injections from hospitals through his sources and selling the same in the open market. He had also planned to procure the empty anti-cancer injections and to refill them with Fluconazole injections (antifungal injection pricing Rs.100 per 150/200mg.) at his facility at DLF Capital Greens, Moti Nagar, New Delhi. Suraj shat was with his idea from the inception.

10. That for the very purpose, Viphil Jain contacted his known



Parvez who had previously worked in Rajeev Gandhi Cancer Institute, Rohini. He discussed his plan and lured him to arrange empty and filled vials of anti-cancer injections (Keytruda, Opdivy, Opdivo etc.). Viphal Jain offered him to pay rupees 40,000-50,000 for filled vial and rupees 5,000 for empty vial. Parvez agreed to his proposal. Parvez had previously worked as a pharmacist in the Oncology department of RGCI, Rohini, therefore, he discussed the same idea with his known Komal Tiwari who was also working in the Cytotoxic Admixture Unit of RGCI, Rohini. Komal Tiwari agreed to his proposal. Initially, Komal Tiwari started misappropriating empty and filled vials of cancer patients from the admixture unit and started supplying the same to Parvez who further used to supply to Viphal Jain. Meanwhile, Parvez also lured Abhinav who was also working in Cytotoxic, Admixture Unit of RGCI, Rohini, to arrange and supply filled vials of anti-cancer injections. Abhinav agreed and started misappropriating filled vials issued to the cancer patients from his admixture unit and started supplying the same to Parvez who further used to supply to Viphal Jain.

11. That in this short span, Parvez and Komal Tiwari garnered huge amounts by selling filled/empty vials of anti-cancer injections. They invested their amount in the pharmacy profession and opened a medical shop in the name of Doctor Pharmacy nearby RGCI, Rohini. Komal Tiwari was the proprietor of this pharmacy shop. They have also made arrangements for stay of foreign at upper floors of this shop.
this shop.

12. That Viphal Jain was looking for the supplier of these anti-cancer vials. He contacted Neeraj Chauhan whom he met through online business portal Indiamart. Neeraj Chauhan had also worked as a manager in oncology department of reputed hospitals of Delhi/NCR. He was also well verse in the field of pharmacy. Viphal Jain shared his idea of procuring and supply of anti-cancer injections with him who instantly agreed. Neeraj Chauhan had good networking in different hospitals and in open market, therefore, it was easy for him to contact the relevant persons for procuring the supply of vials. He was also running a medical tourism firm Futura Global Healthcare and a wholesale pharmacy shop in the name of Mamta Enterprises which assisted his supply



of the anti-cancer vials. Vipnil Jain started supply and procurement of vials with Neeraj Chauhan. Tushar Chauhan who is nephew of Neeraj Chauhan also started assisting him in supply of the anti-cancer injections.

13. That Neeraj and Tushar Chauhan started supply of these anti-cancer injections procured from Vipnil Jain to one Aditya Krishna (the present petitioner) whom Neeraj met through online business portal Indiamart. Aditya Krishna is running a pharmacy shop in Muzaffarpur, Bihar in the name of Popular Medicine. He was receiving the major chunk of supply from Neeraj and Tushar.

14. That the petitioner Aditya Krishna was also directly known to Vipnil Jain, therefore, Vipnil Jain and Suraj Shat were also supplying him the anti-cancer injections directly. Aditya Krishna further supplied these spurious anti-cancer injections to Nikhil Jain based at Pune, Sagar Mehta based at Mumbai and Darshan Soni based at Noida on sale invoices. Nikhil Jain and Sagar Mehta have corroborated that they have received these injections on invoices after paying proper GST. The greed of earning more money required enhanced vial refilling capacity. For the very purpose, Vipnil Jain and Suraj Shat procured three cap sealing machines from Delhi based ACMETech company. They ordered the supply of rubber and aluminum caps and other raw material from Priyanka Corporation, Mumbai. With ramp up refilling capacity and good supply of the refilled/filled anti-cancer vials, the accused persons were garnering huge amounts.

15. That meanwhile, Neeraj Chauhan further contacted his known persons in different hospitals wherein he met one Rohit Singh Bisht who was working as Team Leader in the Oncology department of Venkateshwar hospital, Dwarka. He made him understand his plan of procuring filled/empty anti-cancer vials. Rohit instantly agreed to the lucrative offer of Neeraj and started misappropriating filled/empty anticancer vials from hospital and supplying the same to Neeraj. Neeraj was paying him rupees 65,000 for per filled vial of Keytruda and rupees 35,000 for per filled vial of Opdivo. He was also paying him rupees 5,000 for per empty vial of these anti-cancer injections. Neeraj also brought in his loop to one Jitendra who was working in Oncology department of Fortis hospital, Gurugram who also started misappropriating the filled/empty anti-cancer



injections from his hospital and started supply the same to Neeraj Chauhan. Jitendra was also paid handsomely by Neeraj.

16. That, Neeraj contacted one Majid whom he met in Millennium hospital, Gurugram and proposed him to supply filled/empty injections. Majid agreed to his proposal and procured empty/filled anti-cancer vials inappropriately from the hospital and supplied the same to Neeraj Chauhan. Neeraj Chauhan used to pay him rupees 3,000 for per empty vial and rupees 45,000-50,000 for per filled anti-cancer vial. The greed of earning effortless money drawn Majid to one Sajid who was also his co-worker in Millennium hospital, Gurugram. He discussed the idea of procuring and supplying of the anti-cancer vials with Sajid who instantly agreed him. Sajid also started procuring filled/empty vials inappropriately from the hospital and supplying the same to Majid who further delivered them to Neeraj Chauhan. Apart from these supply chains accused persons Vipnil Jain, Suraj Shat, Neeraj Chauhan, further delivered them to Neeraj Chauhan. Apart from these supply chains accused persons Vipnil Jain, Suraj Shat, Neeraj Chauhan, Tushar Chauhan, Aditya Krishna were also supplying these anti-cancer injections in open market as per demands and sources.

17. Role of the present petitioner/accused Suraj Shat: -

Applicant/accused Suraj Shat along with co-accused Vipnil Jain are the kingpin of this racket. He was also working with Vipnil Jain since last 4-5 years. Suraj Shat also had in hand experience of medical profession as he had also worked at medical stores at Bhagirath place. Suraj Shat and co-accused Vipnil Jain procured three cap sealing machines from Delhi based ACMETech company. They ordered the supply of rubber and aluminum caps and other raw material from Priyanka Corporation, Mumbai. With ramp up refilling capacity and good supply of the refilled/filled anti-cancer vials, the accused persons were garnering huge amounts. From the joint possession of accused Vipnil Jain and Suraj Shat 98 Vials/anti-cancer injection of OPDYTA and KEYTRUDA, 520 Empty Vials of anti-cancer injections, empty cartons, packaging materials, Vial cap Sealing machine, Heat Gun Machine, 3 Manual Cap sealing machines were recovered from their manufacturing unit at Flat No. 1101, Tower-2, EWS, Capital Green, DLF, Moti Nagar. In pursuance to the disclosure statement of accused further recovery of Two Vial cap Sealing machines & Heat Gun Machine



were effected on his instance from his residence. Invoices with regard to purchase of afore-said 03 cap sealing machines were also taken on record. He had Whats app Chat with other associates viz. Tushar Chauhan, Neeraj Chauhan, Vipnil Jain & Aditya Krishna which are incriminating and shows the motive, intention and knowledge of the accused persons. The CDR of accused reflects his constant touch with his other associates viz. Aditya Krishna, Neeraj Chauhan, Vipnil Jain & Tushar Chauhan. Statements of two of the chemist/pharmacist, which corroborates that accused used to purchase Fluconazole injections and NS, RL-5, RL-5, D-5, D-10 from their shops. As per the interrogation of accused persons, the injections of NS, RL-5, RL-5, 0-5, 0-10 were used by them for cleaning of used Vials. Interception voice call recordings of accused with Co-accused Vipnil Jian & Aditya Krishna with regard to manufacturing and sale & Purchase of Spurious Anti Cancer Injections. The applicant/accused had bank account transactions with co-accused persons viz. Aditya Krishna, Vipnil Jain and witness/purchaser Delhi Medicine Hub (Akshay, Chandigarh).”

4. Learned counsel appearing on behalf of the applicant submits that the other similarly placed co-accused persons, namely, Aditya Krishna (BAIL APPLN. 2236/2024 *vide* order dated 29.07.2024), Tushar Chauhan (BAIL APPLN. 2369/2024 *vide* order dated 29.07.2024), Pervez (BAIL APPLN. 2716/2024 *vide* order dated 23.08.2024), Abhinay (BAIL APPLN. 2780/2024 *vide* order dated 23.08.2024), Neeraj Chauhan (BAIL APPLN. 2843/2024 *vide* order dated 23.08.2024), Jitender (BAIL APPLN. 2892/2024 *vide* order dated 23.08.2024), Rohit Singh Bisht (BAIL APPLN. 3081/2024 *vide* order dated 21.11.2024), Sajid (BAIL APPLN. 3119/2024 *vide* order dated 21.11.2024), MR. Majid Khan (BAIL APPLN. 2856/2024 *vide* order dated 23.08.2024) have been granted bail by Coordinate Benches of this Court.

5. It is submitted that the present applicant has been in custody since 12.03.2024 and the chargesheet in the present case has been filed and the case is at the stage of consideration on point of charge before the learned Trial



Court. It is further submitted that no useful purpose will be served by keeping the present applicant in further custody.

6. *Per contra*, learned APP for the State, on instructions of the Investigating Officer, submits that present applicant along with co-accused Vipphil Jain @ Bably is the mastermind of the racket and there are whatsapp chats between the accused persons showing the extent of their involvement. It is further pointed out that the supplementary chargesheet is likely to be filed with respect to the voice samples of the accused persons taken before the learned Trial Court. It is further submitted that the offences alleged against the present applicant are serious in nature and in view of the role ascribed to the present applicant, he does not deserve to be granted bail.

7. Heard learned counsel for the parties and perused the record.

8. As per status report reproduced hereinabove, the role of the present applicant has been shown similar to that of co-accused, Neeraj Chauhan and Tushar Chauhan, and the whatsapp chats also placed on record show the conversation between the present applicant, Aditya Krishna and Vipphil. The Coordinate Bench of this Court while granting bail to the aforesaid Tushar Chauhan had observed as under: -

“8. In Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496, the Apex Court has laid down the parameters for granting or refusing bail to an accused and the same reads as under:

“i. whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

ii. nature and gravity of the accusation;

iii. severity of the punishment in the event of conviction;

iv. Danger of the accused absconding or fleeing, if released on bail;

v. character, behavior, means, position and standing of the accused;

vi. Likelihood of the offence being repeated;



vii. Reasonable apprehension of the witnesses being influenced; and viii. Danger, of course, of justice being thwarted by grant of bail.”

9. In the present case, the Petitioner is in custody since 12.03.2024. Charge-sheet has been filed. The evidence is primarily documentary in nature and is already in the custody of Police. Considering the fact that the evidence is primarily documentary in nature, the possibility of the Petitioner tampering with evidence is very remote and since most of the witnesses are official witnesses, the chance of the Petitioner threatening the witnesses is also very remote.”

9. In the present case as well, the present applicant has been in custody since 12.03.2024 and the matter is presently at the stage of consideration on point of charge. The prosecution has cited 57 witnesses in the chargesheet and further witnesses will be cited after filing of the supplementary chargesheet.

10. In view of the fact that other similarly placed co-accused persons had already been granted bail and in totality of the facts and circumstances of the case, the applicant is directed to be released on bail, on his furnishing a personal bond of Rs. 1,00,000/- with two sureties of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions:

- i) The applicant shall not leave NCT of Delhi without prior permission of the concerned Court.
- ii) The applicant is directed to attend all the proceedings before the Trial Court.
- iii) The applicant shall report to the concerned Police Station every Monday, at 10:00 AM and he should be released after completing all the formalities within an hour.
- iv) The applicant is directed to give his mobile number(s) to the



Investigating Officer and keep them operational at all times.

v) The applicant is directed not to indulge in the business of supplying medicines till the completion of trial.

vi) The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witnesses.

vii) Violation of any of these conditions will result in the cancellation of the bail given to the applicant.

11. The application is allowed and disposed of accordingly.

12. Pending applications, if any, also stand disposed of.

13. Needless to state that, nothing mentioned hereinabove, is an opinion on the merits of the case and any observations made herein are only for the purpose of the present bail application.

14. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.

15. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

MARCH 06, 2025/bsr

Click here to check corrigendum, if any