IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1094 OF 2018

Samrat Subhash Kumar Bhardwaj … Applicant
Aged about 39 Years, Occ. Service,
R/o House No. 2/264, Sector-47-C,
Chandigarh

Vs.

1. The Intelligence Officer,
   Directorate of Revenue Intelligence,
   Mumbai Zonal Unit, Mumbai

2. State of Maharashtra
   Through the Public Prosecutor,
   High Court, Bombay … Respondents

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Mrs. Avnish Ahlawat a/w Mr. Laram Dogra, Mr. Srajita Saharia, Ms. Palak Rohmetra I/by Rignaya & Associates for the applicant.
Ms. Francis E. Saldanha for the Respondent No.1.
Mr. Y.M. Nakhwa, APP for the Respondent-State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 28th SEPTEMBER, 2018

P.C.

1. The applicant is seeking bail in N.D.P.S. Special Case No. 481 of 2017 pending before the Court of Special Judge for N.D.P.S. Case, Thane.

2. The case of the prosecution is as follows :

a) Applicant is prosecuted for offence under Sections 29 read with 8(c) of NDPS Act read with 22(c), 23(c), 25 read with Section 8(c) & Section 27A read with 8(c) of N.D.P.S. Act.

b) On 21st November, 2016 specific intelligence conveyed to the Principal Additional Director General, Directorate of Revenue Intelligence, Mumbai Zonal Unit was received from Additional Director, General of Ludhiana Intelligence Unit vide letter dated 21st November, 2016 indicating that one Manjeet Singh Resident of Mumbai is involved in illegal export of Psychotropic Substance viz Alprazolam, Zolpidem, Diazepam etc. The parcels of said substances are exported through Foreign Post Office, New Delhi by way of misdeclaration and use of fake prescriptions. The parcels are mainly destined for USA and U.K. The said person receives the said substance at the premises reflected in the information at Mumbai. He is assisted by his employees. The orders for overseas export are received from one Samrat (Chandigarh) and Nitin Pawar (Mumbai) among others. The said persons are running fake internet pharmacy and procure order from the International Customers.(Mostly USA and UK based) Manjeet Singh procures the said substances from various Chemists and Stockists based in Ludhiana, Mumbai, Sangli, Agra and other places. Manjeet Singh receives payment from his associates Samrat, Nitin Pawar and others in his ICICI Account and other account current account in the name of Acme Global Solution & Allied Computer. The details of premises to be searched were also provided.

c) The intelligence was marked to Deputy Director, C-Cell, DRI, Mumbai who further marked the intelligence letter to Shri S. Venkata Subramaniam, Sr. Intelligence Officer (SIO), DRI and directed him to form the teams for the premises to be searched as mentioned in the intelligence letter.

d. Accordingly team of DRI rushed towards office of Trackon Couriers Pvt. Ltd at Mira Road there on 21st November, 2016. Search was carried out. Delivery acknowledgement sheet dated 24th October, 2016 was found showing docket sent to one Manjeet Singh. Other documents were also recovered. Another team rushed to residential premises of Manjeet Singh Chilotra at Mira road on 21st November, 2016. Panchanama recorded. The other team visited office of Manjeet Singh at Mira Road. Search carried out. Manjeet Singh was present. Tablets having different name and packing were found stored.

e. Applicant was arrested by DRI Officer at Chandigarh on 22nd November, 2016 and was produced before the Judicial Magistrate First Class, Chandigarh. He was remanded to judicial custody. D.R.I. Mumbai, preferred an application for arrest of the applicant before the Special Court at Chandigarh. The said application was opposed by the applicant/accused. Learned Special Judge, Chandigarh rejected the said application by order dated 7th December, 2016 on the ground that there is no production warrant of arrest issued by the concerned Court and no permission of arrest can be granted if the accused is used to arrest by DRI Zonal Unit than the production warrant of the arrest can be issued by the competent Court. Subsequently, DRI-I, Unit obtained permission from the Additional Session Judge, Thane seeking issuance of request letter for arrest of the applicant/accused. In pursuant to that another application preferred before the Court of Chandigarh supported by letter issued by the Special Court, Thane that the custody of the accused is required in the said matter. In view of the request letter issued by the Court, keeping in view the fact that the accused is to be produced before the Additional Sessions Judge, Thane, the transit permission was allowed upto 17th December, 2016 with a direction to the Intelligence Officer, DRI to produce the accused before the concerned Court on 17th December, 2016.

f. The statement of the appliant was recorded under Section 67 of N.D.P.S. Act. In the statement he has admitted that he used to work as call centre agent upto 2008-2009 where his shop was to call overseas customers to sell medicine and thereafter he started his own call centre for supply of medicine to USA based customers from Chandigarh. For receiving payment he used Paypal account of one person namely Harinderjit Singh @ Monu and after receiving the payment he used to order the Psychotropic Substance to accused No.1 to supply the medicine to USA. It was further stated that accused No.1 Manjeet used to procure Psychotropic Substance from different person and sent them to customers whose address were given to him by the applicant. The payment towards these transaction was made to accused No.1 by depositing cash in his bank account. The Psychotropic Substance was sent to USA customer without prescription by himself declaring the goods. There was no licence granted to the applicant for sell and purchase of medicine and he was aware that the medicines which were supplied by him are covered under the list of Psychotropic Substance of NDPC Act and dealing with them is an offence. On receiving payment through one person namely Akshit Choddha and others who used to provide him various merchant account where he received money on his behalf and paid him cash after deducting him commission.

g. The investigation revealed that the applicant had used

Paypal account. He received the payment of Rs.60,24,756/- on account of illegal overseas sale of Psychotropic drugs. The applicant used merchant account, New H.M. Services E-client care etc. through Anish Malhotra and Amit Khanna and received an amount of Rs. 31,00,000/- in respect of sale of Psychotropic drugs. He received overseas payment through M/s Raju Fashion House and R.S. Communication. These payments were received from Foreign National USA towards purchase of Psychotropic Substance from applicant through Accused No.1. The property of M/s Raju Fashion House and R.S. Communication admitted that applicant has received the overseas payment from USA. Regular transaction of receipt of payments were made by the applicant with M/s Allied Computer and D.M. Web Solutions.

3. Applicant preferred an application for bail before the Sessions Court at Thane which was rejected on 15th September, 2017. He preferred another application for bail which was also rejected on 22nd January, 2018.

4. Learned Advocate Mrs. Ahlawat submitted that the applicant has been falsely implicated in this case. There is no cogent evidence to show the involvement of the applicant. The applicant is in custody from the date of arrest. The chargesheet is already

filed. The Intelligence Officer, DRI, Chandigrah and the respondents herein did not follow the procedure laid down under Section 41, 42, 50 of N.D.P.S. Act. During the search the Intelligence Officer did not find any Psychotropic Substance in physical custody of the applicant nor any cash in his premises or bank account. The Intelligence Officer, Chandigarh only seized the electronic gadgets such as mobile, lap top and hard-disk. He was arrested on the basis of his statement and statement of co-accused recorded under Section 67 of N.D.P.S. Act. There is no corroborative evidence to support the said statement. The applicant filed an application before the Special Judge at Chandigarh on 25th November, 2016 and retracted all statements recorded under Section 67 of NDPS Act. Mere statement made under Section 67 of NDPS Act is not admissible as evidence. By letter dated 30th December, 2016, Intelligence Officer, DRI Chandigarh addressed letter to the Additional General DRI Ludhiana with CC to DRI, Mumbai whereby it was informed that the present case registered by Intelligence Officer, DRI, Chandigarh against the applicant is based on the same intelligence and is a single issue and also admitted by the intelligence Officer, DRI, Chandigrah that no recovery / seizure has been affected by the Unit. The entire case of the prosecution is based on electronic evidence where as there is no compliance of Section 65 (B) of the Evidence Act.

5. Learned counsel further submitted that there is no evidence of cash payment to applicant. No cash or valuable, property has been recovered / seized against the applicant. It is further submitted that the applicant is in custody from 27th November, 2016. Chargesheet has been filed. Further custody of the applicant is not necessary. There is no material to connect the applicant with the allegation of procuring orders for accused No.1 and receiving payments. The arrest of the applicant is on the basis of the statement of accused No.1 recorded under Section 67 of NDPS Act which is not corroborated by any evidence. Applicant was discharged by the Chandigarh court on the ground that the evidence collected against the applicant is not sufficient to try him in the case. There is no recovery of drugs/cash etc. There is no evidence muchless new evidence collected against the applicant by DRI, Mumbai before or after the discharge of applicant by Chandigarh Court on 26th May, 2017. E-mail address forwarded to Google company by e-mail dated 30th March, 2017 has not attributed any back up, such as date of creation and mobile

number etc. Section 65-B of Evidence Act has not complied for relying electronic evidence. The figure of Rs.52,50,000/- has been referred to prejudice Court. There is no evidence of transferring such amount. It is the contention of the prosecution that applicant used Paypal account sales@sendexporters.com through Shri Harinderjit Singh @ Monu and received an amount of Rs.60,24,756/- on account of illegal overseas sales of overseas drugs. There is no evidence to support the said allegation. It is submitted that prosecution is relying on statements of several witnesses, however, several statements does not form part of the complaint filed by the prosecution. Although, the prosecution is relying upon the Paypal account of Smt. Maninder Kaur who is mother-in-law of Harinderjit Singh. They are not witnesses in the said case. There are no criminal antecedents against the applicant. The information purportedly received and forwarded to the authorities was not placed on record at the relevant time and subsequently the document purportedly comply the provisions of N.D.P.S. Act under Sections 41 and 42 was produced. The co-accused Deepali Narvekar and Kiran Khanna were granted bail although incriminating material is recovered from them. The applicant is in custody from 22nd November, 2016. All documents are already seized by respondents. During search by DRI, Chandigarh no Psychotropic Substance were recovered. In view of the fact that there was no recovery / seizure the case of DRI, Chandigarh is a weak case and therefore the request was made to merge the case with Mumbai complaint. The applicant was discharged by Chandigarh Court on the ground that evidence collected against him is not sufficient to try him in this case. Neither Harinderjit Singh nor Maninder Kaur are witnesses in case. The documents do not indicate cash withdrawal by applicant from Maninder Kaur's Account. The withdrawals are normal business transactions of Maninder Kaur, apparently payments to staff etc. The reliance is placed on the following decisions.

i) ***Union of India (UOI) -Vs- Rattan Mallik @ Habul***[1]

ii) ***Surinder Kumar Khanna -Vs- Intelligence Officer Directorate of Revenue Intelligence***[2]

6. Learned counsel for the Respondent / DRI submitted that there is sufficient evidence against the applicant showing his involvement. Applicant used to book orders for Psychotropic Substance from overseas customer through his call centre and the

1. 2009 Cri.L.J.3042

2. (2018) 8 SCC 271

order for supply of Psychotropic Substance were placed by the applicant to accused No.1. The applicant was arrested by DRI, Chandigarh on 22nd November, 2016 and was produced before the Judicial Magistrate First Class, Chandigarh for remand. The Court was pleased to grant judicial custody. He was arrested by DRI, Mumbai Zonal Unit in relation to his role in the present case on 14th December, 2016. Applicant was produced before the DRI Office from Chandigarh on 15th December, 2016 and was produced before the Special Judge of NDPS, Thane. The statement of the applicant was recorded under Section 67 of the N.D.P.S. Act on 21st November, 2016 wherein he has *interalia* admitted that he used to work as a call centre agent upto 2008-2009 where his shop was to call overseas customers to sell the medicines. In 2008-2009 he opened his own call centre for supply of medicine to USA based customers from Chandigarh. They used to communicate with their customers based in USA by making internet phone call to them and have conversation with them about medicine they can supply after they placed the order. The payment was sought from them. On receipt of payment, the medicines were supplied to the customers through e-mail for receiving payment, the applicant was using Paypal of one person Harinderjit Singh @ Monu and once the applicant received the payment, he used to place orders for Psychotropic Substance to accused No.1 for supply of medicine to USA. Accused No.1 used to procure Psychotropic Substance from different persons and then sent them to the customers whose address were given to him by the applicant and the payment towards these transactions were made to accused No.1 by applicant by deposing cash in his bank account. He further admitted that Psychotropic Substance were sent to USA customers without prescription and at the time of shipment of the Psychotropic Substance the same were misdeclared as other goods and not medicines as export of medicines without prescription is not allowed. He had not been granted any license by any authority for sale and purchase of medicine and that he was aware that the medicine which were being supplied by him are covered under the list of Psychotropic Substance provided under NDPS Act. There was supply of Ambien, Xanex, Clonazepam, Valium etc. to their customers. The applicant also confessed and admitted that he used to communicate to his buyers through his nick name Goerge, John. The payment to accused No.1 were generally transferred from Shri Chaitan from Chandigarh. The statement of Chetan Patel was recorded on 2nd March, 2017 under Section 67 of

N.D.P.S. Act wherein he admitted and provided slip pertaining to transfer of Rs.52,50,000/- by the applicant to accused No.1. Second route of receiving payments through same person viz Akshit Chodha, Shri, Vijay, Shri Anish and Mr. Sahid who used to provide him with various merchant accounts wherein they received money on his behalf and paid him cash after deducting their commission. It is further submitted that the investigation revealed that the applicant had used Paypal account sales@sandsexport.com through Shri Harjinder Singh @ Monu and received an amount of Rs.60,24,756/- on account of illegal overseas sale of these Psychotropic drugs. It was also revealed that the applicant used merchant account New HM Services, E-Client Care, Great New Start Airmail Products through Anish Malhotra, Amit Khanna and received an amount of Rs.31,50,000/- in respect of sales of Psychotropic Substance. The applicant had received overseas payment through M/s Raju Fashion House and M/s. R.S. Communication. These payments were received from foreign nationals of USA towards the purchase of Psychotropic Substance from applicant through accused No.1. Shri Sanjeev Kumar, Proprietor of M/s Raju Fashion and M/s R.S. Communication admitted that the applicant that the applicant received overseas payments through USA through his sub agency M/s Raju Fashion House and R.S. Communication over last five years totalling amount of Rs.2,57,879/-. He further submitted that frequent transactions of receipt and payments were made by applicant with M/s Allied Computer, ICICI Bank,Thane and D.M. Web Solutions, Thane ICICI Bank, Thane.

7. Counsel for the respondent further submitted that original intelligence was not received by DRI, Office, Mumbai but was received by DRI Ludhiana Unit Cell and that they had conveyed it to the Additional Director General, Directorate of Revenue Intelligence, Mumbai Zonal Unit for further necessary action which was initiated and the applicant was arrested. DRI, Ludhiana Unit had complied the provisions of Section 42 and the copy of the Original Intelligence note received, was received by fax in the DRI, Mumbai Zonal Office from the DRI, Ludhiana and the same was submitted in the Court. The compliance of evidence with regards to Section 65 B is a matter of trial and the evidence shall be produced by the Respondent during the trial stage. The copy of original intelligence note received from DRI, Ludhiana Zonal unit dated 19th November, 2016 which was received in the office of DRI at Mumbai in the month of August, 2017 was also placed before

the Court in August, 2017. It is submitted that voluminous evidence to show that applicant has aided and connived with accused No.1 in illegal export of Psychotropic Substance. It is submitted that the statement of several witnesses which were recorded by the prosecuting agency did not form part of the complaint cannot be considered at this stage. In view of embargo under Section 37 of the N.D.P.S. Act, the applicant is not entitled for bail. There is substantiative evidence against the applicant showing his involvement in the crime. Learned counsel for the respondent also drew my attention to the complaint filed by the Respondent point out the nature of evidence collected by the Respondent during the course of investigation which is retracted therein. It is therefore submitted that the application for bail may be rejected.

8. Having heard both the sides, I have gone through the documents, relied upon by both the sides. Application has been opposed by the respondent by filing his say. The grievance of charge against the applicant that he used to take order for Psychotropic Substance from overseas customers and order for supply of Psychotropic Substance were placed to accused No.1. The applicant was arrested by D.R.I. office Chandigarh on 22^{nd}

November, 2016. His statement was recorded under Section 67 of N.D.P.S. Act. The prosecution is heavily relied upon the contents of the said statements which are narrated herein above. Apparently, the original intelligence was not received by DRI Office at Mumbai but it was received by Unit/Cell at Ludhiana and the same was conveyed to Additional Director General, Director of Revenue Intelligence, Mumbai Zonal unit for further action was initiated. The investigation is not only recorded the statement of the applicant but also recorded the statement of co-accused under Section 67 of N.D.P.S. Act. The statement of independent witnesses are also recorded. According to the prosecution there are statement of independent witnesses who has provided incriminating evidence against the applicant and clearly goes to show that he is directly connected with Accused No.1. it is true that there is no seizure at the instance of the applicant, however, there is evidence showing his involvement in the offence. Co-accused Deepali Narvekar and Kiran Khanna were granted bail, considering the nature of evidence against them and parity cannot be applied. Learned counsel for the respondent also submitted that Respondents are contemplating to challenge the order granting bail to the co-accused. In the statement of the applicant he has admitted that he opened his own call centre for supply of medicine to US based customers and through his call centre there was communication with their customers based in USA. The customers were informed about the medicine they can supply and once they placed the order the payment was sought from them and on receipt of the payment, the medicines were supplied to the customers through courier. It is stated that for receiving the payment he using Paypal account of one person namely Harinderjit Singh @ Monu and once received the payment the orders were placed for Psychotropic Substance to accused No.1 to supply medicine to USA. He also admitted that accused No.1 used to procure Psychotropic Substance from different persons and sent them to the customers whose addresses were given to him by the applicant and the payments towards these transactions were made to accused No.1. Psychotropic Substance were sent to USA customers without prescription. The payments to accused No.2 were generally transferred to Shri Chetan Patel whose statements was also recorded on 2nd March, 2017 where he admitted that provided slips pertaining to transfer of Rs.52,50,000/- by applicant No.1 to accused No.1. The second route for receiving payment was through some person who are named in the statements.

Investigation also revealed that the applicant had used to Paypal account and received an amount of Rs.60,24,756/- on account of illegal overseas sale of Psychotropic Substance. It is also the case of the prosecution that applicant has received overseas payments through M/s Raju Fashion House and M/s. R.S. Communication. It is also revealed that the frequent transactions of receipt and payments were made by the applicant with M/s Allied Computer and D.M. Web Solutions as stated above. Original intelligence was not received by DRI Office Mumbai but was received by the DRI Ludhiana Unit/Cell which was conveyed to DRI, Mumbai and necessary action was initiated. According to the prosecution, DRI Ludhiana has complied the provisions of Section 42 of N.D.P.S. Act. Requisite documents relating to the said intelligence information are part of record. In the circumstance, the issue relating to non-compliance of Sections 41, 42 and 50 of N.D.P.S. Act is a matter of evidence and is required to be adjudicated during the trial. The applicant also cannot be granted bail on the basis of the statement that there is non-compliance of Section 65B of the evidence Act. The trial is yet to proceed and the evidence can be produced even at the later stage. It is noted that the copy of the original intelligence note received from DRI, Ludhiana Zonal unit dated 19th November, 2016 was received in DRI Office at Mumbai in August, 2017 which is also part of record.

9. In pursuant to the receipt of information, the DRI team carried out of M/s Trackon Courier Private Limited and in the search they found delivery acknowledgement sheet dated 24th October, 2016 showing that the docket had been delivered to Manjeet Singh. Office searched and checked all the documents and observed that one parcel was addressed to one Manohar Marwa having address at Mira Road. The said parcel weighing 1.03 kg and containing was found to be contained Psychotropic Substance of bar code carrying Logo of Indian Cadres. Another team of DRI proceeded towards residential premises of Manjeet Singh at Meera Road. Panchas were called. Seizure was prepared. The requisite documents were seized. Team then headed to office premises of Manjeet Singh and search was carried out. The said accused showed various types of tablets having different name being stored. On enquiry Manjeet Singh disclosed that the tablets Psychotropic Substance Alprozolam, Zolpidem, Diazepam etc. Investigating machinery conducted further search and collected sufficient material. The details are spelt out in the complaint filed by the Respondents. There is corroborative evidence to prove that

he is involved in the instant case. *Prima-facie,* there is corroborative evidence against applicant which will have to be examined during trial. The case of the prosecution is not only based on statements of accused but is also supported by other witnesses. The respondents have filed rebuttal to the retractions of the statements made by other accused stating active role of applicant in this case which is filed before the Court. The said fact is reflected in reply filed by respondent dated 18th September, 2018. There is evidence regarding money trial by applicant to prove his involvement. In the above reply, it is also stated that there are some key individuals whose statements has solidified the active role of applicant in this case, and due to possible threat to their life and possibility of undue pressure / intimidation being weilded by accused in this case and possibility of trial getting hampered due to this, the names of these individuals were not included in the list of witnesses. However, there is mentioned of "any other witnesses" in the complaint filed and these individuals will be presented as witnesses during trial.

10. Statement of Harinderjit Singh was recorded on 08/12/2016 under Section 67 of the NDPS Act, 1985 (as amended) by the DRI Chandigarh Regional Unit Officers, wherein he interalia stated that

he had known applicant through applicants's brother Sumesh Bardwaj, who was his friend for the last 11 years . That applicant was known to him as they used to play cricket together; that he had no business relation with applicant as stated above; that he is engaged in the business of export/import/domestic trading of ferrous and non ferrous scrap since 2004-05 and has a proprietary concern M/s. H.K.Enterprises at Godown Np. 7, Behind Bhambri Kanda, Amloh Raod; that the IEC code of his firm is 2201000387 which was taken in 2001; that he rarely exports and the last export was made by him about more than 2 years ago to African nations; that he had no other firm / company; that he had no personal relationship with applicant except for the fact that he is brother of his friend Sumesh Bhardwaj; that applicant used to visit his father's hotel – The Majestic, Mohali frequently for dinging with family and friends; that about two years ago applicant contacted him and informed him that he was proving online Technical support and running a call centre; that his company is yet not registered and likely to take sometime for the same and thereafter requested him to open a PayPal account in his name temporarily; that he did not entertain his request at first but applicant insisted many times and said that his business will suffer great losses; that applicant informed that he only wanted Import Export Code and one bank account number for the same and that he would manage the rest himself; that as his mother in law Smt. Maninder Kaur was into boutique business and engaged in sale of clothings / suits overseas since 2003 and used to receive overseas payments for the same, he opted to provide the details of IEC and bank details in good faith to applicant; that he obtained the IEC code and Bank account details from his mother in law Smt. Mandiner Kaur, who provided the same without much questioning as he is her son in law; that he provided copy of IEC Code and bank account details to applicant; that applicant himself opened the paypal account online for receipt of payment from his overseas clients; that this account was further attached with the current account No. 12092020000340 of M/s S & S Exporters in HDFC Bank, SCF 69, Phase 3 B2, Mohali which was a proprietorship firm of his mother -in-law; that he did not know at all that applicant was engaged in sale of psychotropic drugs; that as per his knowledge and belief he was engaged in providing online technical support with respect to software upgradation/repair/networking; that he never knew that he said payments were on account of sale of psychotropic drugs online;

that he was told by applicant that he had to receive payments from overseas in respect of Technical support being provided by him; that Smt. Maninder Kaur was a resident of House No. 3051, Phase 7, Mohali, since last 20 years and is a entrepreneur running a boutique from her residence and then was in Canada to meet her daughter and she was expected to return by 26.12.2016; that she also exports her clothings / suiting to Canada / Australia; that payments related to exports were received by her in her Saving bank account No. 13071000065832, HDFC Bank, SCO 55-57, Phase 7, Mohali; that the Paypal account was opened by applicant and he did not even know the exact name in which the Paypal account was opened; that he did not know how to create a paypal account and he had neither created nor used nay paypal account till date; that applicant opened the said paypal account and was solely operating the same and the user name and password were with applicant only and he never asked for the same from him as he had nothing to do with it; that as per the bank account statement approximately Rupees 57 lakhs have been received in the said account through paypal since April 2015 when this paypal account was opened by applicant which was attached to the bank account of M/s S 7 S Export in which his mother-in-law was proprietor; that he did not receive any commission from applicant on account of his payments received in the account of his mother in law Smt. Maninder Kaur; that he and his mother in law did not charge any commission; that all the arrangements were done just on good faith and that too temporarily; that as soon as he came to know about the misuse of the paypal account linked to his mother in law's bank account No. 12092020000340, the account was immediately closed by his mother in law; that he or his mother in law or any of his family members are not helping or assisting applicant in any manner.

11. The prosecution case is that during investigation, it was learnt that applicant was holding three accounts (Savings Account No. 108401509289 and 001301044036, Current Account No. 001305500446) in ICICI Bank, Sector 9, Chandigarh. On perusal of the bank statement of applicant it was noticed that there are frequent credit entries from Raju Fashion and R. S. Communication. It has been gathered that the said firm were operating from Sector 32 Chandigarh and were dealing in foreign currency exchange / money transfer. As it was likely that the payment received by applicant through these many agents may be on account of psychotropic drugs sold overseas. Shri Sanjeev

Kumar (Prop of M/s/ R S Communication and Partner in M/s. Raju Fashion House had submitted details / records vide letter dated 23.01.2017 of M/s/ Raju Fashion House and vide letter dated 23.01.2017 of M/s. R.S. Communication pertaining to applicant. It was observed that applicant has received sixteen overseas payments through M/s. Raju Fashion House and eight overseas payments through M/s. R S Communication. These payments were received from foreign national of USA. Shri Sanjeev Kumar was further asked to recheck his records for more entries. Shri Sanjeev Kumar rechecked his records and submitted details/ records vide letter dated 16.02.2017 (pertaining to 7 more transactions made by applicant at M/s. Raju Fashion House., Sec 32 Chandigarh. The amount so received from the foreign clients was cross checked with the entries of the business sheet of applicant which was retrived from his email Id georgeshivaliktrading60@gamil.com during his statement dated 21-22.11.16 and it was found that the entries match with the entries in the business sheet, which clearly gives proof of the fact that applicant was receiving these overseas payments on account of illegal sale of psychotropic drugs.

12. According to prosecution it was also noticed from ICICI bank statements of applicant that regular / frequent transactions of receipt and payments were made by applicant with M/s. Allied Computers (A/c No. 001905004990- ICICI Bank, Thane Branch), D.M. Web Solutions (A/c No. 249705500082- ICICI Bank, Thane Branch), Atlantis Infotech (108705000985, ICICI Bank, Ambad Branch) and Nexus Infotech (108705000943- ICICI Bank, Ambad Branch). It was also noticed that applicant had received huge Sales Commission from M/s. Atlantis Infotech (108705000985, ICICI Bank, Ambad Branch) as reflected in his bank account statement. Further, frequent cash deposits were made in these bank accounts by CAM (Cash depositing machines) of various branches of ICICI Bank, Secunderabad. However, the bank could not provide the details of the depositor. Further, Investigations revealed that Shri Samrat Bhardwaj was also having 4 accounts in Indusind Bank, Sector 9, Chandigarh in the name of applicant as detailed below:

1. 200999034493- Current Account
2. 200999034547- EEFC- USD
3. 200999034592- EEFC- GBP
4. 200999034608- EEFC- EUR

13. It is also alleged that in order to ascertain whether any Drugs License has been issued to applicant by Drug Controller and Licensing Authority for Dealing in various medicines and to ascertain the nature of medicines being dealt by him (as admitted in his statement dated 21-22.11.16). The matter was taken up by DRI / Chandigarh Regional office vide letter F. No. DRI/CHDRU/855/Int-01/2016/34 dated 13.01.2017. In this regard, it was informed by Drug Controller and Licensing Authority, Chandigarh, vide letter Memo No. DIS-2017/133 dated 31.01.2017, that no license has been issued in the name of applicant for dealing in medicines and informed about the nature of various medicines. Further, from the business sheet of applicant retrieved from his email during his statement dated 21-22.11.16, it was noticed that there were various types of medicines of different potencies and primarily list of the same was prepared and sent to Drug controller and Licensing Authority, Chandigarh to further ascertain the nature of all these medicines as to whether they are covered under the schedule of NDPS Act, 1985 or not. Drug control and Licensing Authority, Chandigarh vide their letter Memo No. DIS- 2017/433 dated 27.03.2017 provided the details of the nature of medicines. Further, vide their letter Memo NO.

DIS-2017/584 dated 12.04.2017), Drug controller cum Licensing Authority, Chandigarh, clarified the name of the psychotropic substance present in the medicine, if any; whether the same is covered under Schedule of NDPS Act or not; whether the substance present is psychotropic / narcotic; S1. No. where the said psychotropic / narcotic substance appears in the purview of NDPS Act., 1985. Thus, there is sufficient evidence against applicant. The DRI, Mumbai was requested vide letter dated 30th December, 2016 to finalize on priority the aspect reflected therein and to take necessary action. Apart from observing that there was no seizure from applicant at Chandigarh it was stated that the case depends on case registered by DRI, Mumbai against main accused Manjeet Singh and five others at Mumbai where seizure of huge quantity of Psychotropic Substance was made. It shall therefore be appropriate to merge said case in the matter may be filed by DRI as applicant is a part of larger syndicate functioning at Mumbai for exporting illegal psychotropic drugs overseas wherein the applicant was involved in the task of obtaining overseas orders and receiving payments. In this case, it is apparent from perusal of record that the prosecution has not only recorded statement of applicant under Section 67 but also recorded statements of co-accused and other independent witnesses. The documentary evidence filed in support of statements of independent witnesses are *prima-facie* sufficient to consider involvement of applicant.

14. The decisions relied upon by the advocate for the applicant relates to law relating to grant of bail and eventuality value of statement under Section 67 of N.D.P.S. Act, it is noted that there is sufficient evidence against the applicant showing his involvement in the crime. The statement of applicant recorded under Section 67 of the N.D.P.S. Act is also supported by other material on record and *prima facie* involvement of applicant is disclosed. In view of above, no case for grant of bail is made. Hence, I pass the following order.

ORDER

Bail Application No. 1094 of 2018 is rejected.

(PRAKASH D. NAIK, J.)