

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM A-1065-MA of 2016
Date of Decision : August 1, 2018**

Narcotics Control Bureau

.....Applicant

Versus

Sandeep

.... Respondent

**CORAM : HON'BLE MR. JUSTICE T.P.S.MANN
HON'BLE MR. JUSTICE FATEH DEEP SINGH**

Present : Mr. D.D. Sharma, Advocate
as Senior Standing Counsel for the applicant.

T.P.S.MANN, J.

The Narcotics Control Bureau has filed the present application under Section 378(4) of the Code of the Criminal Procedure for grant of leave to appeal against the judgment dated 4.3.2014 passed by learned Special Judge/Additional Sessions Judge, Gurgaon, whereby, Sandeep accused stands acquitted of the charges under Section 29 read with Section 20(B)(II)(C) of the Narcotic Drugs and Psychotropic Substances Act 1985 (hereinafter to be referred as 'the NDPS Act').

According to the prosecution, on 4.2.2012, a secret information was received by Rajesh Kumar, Intelligence Officer, Narcotics Control Bureau, Delhi Zonal Unit, that one Ramesh Kumar Patil was dealing in business of narcotics drugs and some times concealed the drugs in his house. If his search and search of his residence was carried out, recovery of huge quantity of

narcotics drugs could be effected. The Intelligence Officer alongwith his fellow officials reached the house of Ramesh Kumar Patil and knocked the gate. The gate was opened by a lady. The Intelligence Officer introduced himself and his team. Moti Lal, owner of the house confirmed that Ramesh Kumar Patil was living as tenant in his house at first floor. The Intelligence Officer alongwith his fellow officials then went upstairs where one person was sitting who revealed his name as Ramesh Kumar Patil. After completing requisite formalities, personal search of Ramesh Kumar Patil was conducted but nothing incriminating was found. The team members then searched first room occupied by Ramesh Kumar Patil but again nothing suspicious was found. The search of another room by the side of balcony was then conducted where two bags, one of blue colour and the other of green colour were found. On search of those two bags, 22 packets were recovered. On opening one packet, brown colour substance was recovered, which was tested and gave positive result for charas. The contents of all the bags were mixed and when weighed, came out to be 19.450 kilograms. Two samples of 25 grams each were drawn and taken into possession. Thereafter, substance recovered in the shape of candle was broken and mixed due to different shapes. It weighed 2 kilograms. Two samples of 25 grams each were drawn. Panchnama/seizure memo was prepared at the spot. Notice under Section 67 of the

NDPS Act was served upon Ramesh Kumar Patil. Report under Section 57 of the NDPS Act was submitted to the Superintendent, Narcotics Control Bureau, Delhi Zonal Unit. Ramesh Kumar Patil accused in his statement under Section 67 of the NDPS Act disclosed that Nazeed, Altaf and Shaukat, who were residing at Bir Ganj, Nepal were supplying charas to him and he used to supply the charas to Ravi and his companion, who would meet him in Sadar Bazar, Delhi and his companion's mobile number was 98733-17267. The Intelligence Officer contacted Nodal Officer of Vodafone to ascertain the details of the subscriber of the said mobile number and was informed that mobile number stood subscribed in the name of Hukam Chander son of Bharat Singh, Balram Nagar, Loni, Gaziabad. The Intelligence Officer tried to locate the address of Hukam Chander but remained unsuccessful. On calling at the aforementioned mobile number, it was attended to by Sandeep accused. Notice under Section 67 of the NDPS Act was then issued to Sandeep accused. In pursuance of the same, Sandeep accused appeared in Narcotic Drugs Bureau Office on 12.3.2012 and produced his Nokia phone having SIM of Mobile Number 98733-17267 and also made voluntary statement before Shri G.S. Bhinder, Intelligence Officer and admitted in his statement that the mobile number belonged to him and the same was at the address of his father. He also admitted that Ramesh Kumar Patil used to contact

him through Mobile No.8285422019 and deliver charas to him. On the basis of his voluntary statement Sandeep accused was arrested on 13.3.2012. His jamatalashi was also conducted and mobile taken into possession.

The trial of the case, ended in the acquittal of Sandeep accused whereas Ramesh Kumar Patil was convicted under Section 20(B)(II)(C) of the NDPS Act and sentenced to undergo imprisonment for ten years and to pay a fine of Rs.1,00,000/-.

After hearing learned Senior Standing Counsel for the Narcotics Control Bureau and on going through the impugned judgment, this Court finds that Sandeep accused was implicated on the basis of disclosure statement suffered by Ramesh Kumar Patil that Nazeed, Altaf and Shaukat used to supply charas to him and he used to supply the same to Ravi, who would meet him in Sadar Bazar, Delhi. During the investigation, the Intelligence Officer learnt that aforesaid mobile number 98733-17267 was issued in the name of Hukam Chand, which was used by his son Sandeep accused. However, no recovery of any contraband was effected from the possession of Sandeep accused. The name of accused was not disclosed by Ramesh Kumar Patil at the time of raid or at the time of recovery of contraband from him. The name of Sandeep accused was disclosed when accused Ramesh Kumar Patil was interrogated by the Intelligence Officer in the

office of Narcotics Control Bureau. The name of Sandeep accused was also not disclosed by the secret informer. Moreover, when Sandeep accused was interrogated and his statement was recorded, no independent witness was joined by the Intelligence Officer. Still further, no conversation detail between accused Ramesh Kumar Patil and accused Sandeep has been produced by the prosecution. Mere call details is not sufficient to prove that Sandeep accused was also involved in the business of narcotic drugs or he had any connection with Ramesh Kumar Patil.

In view of the above, no case is made out for grant of leave to appeal against the acquittal of Sandeep accused.

The application is without any merit and, therefore, dismissed. Leave to appeal is declined.

(T.P.S. MANN)
JUDGE

August 1, 2018
amit rana

(FATEH DEEP SINGH)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No