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IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 04.03.2021

Pronounced on: 16.03.2021

+ BAIL APPLN. 2585/2020 & CrI.M.(B) 8044/2020

MOHIT AGGARWAL

..... Petitioner

Through: Mr. Ramesh Gupta, Senior Advocate
with Mr.S.P.Singh Rathore &
Mr. Shailendera Singh, Advocates

Versus

NARCOTICS CONTROL BUREAU

..... Respondent

Through: Mr. Rajesh Manchanda, Standing Counsel
for NCB with Mr. Rajat Manchanda,
Advocate

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

JUDGMENT

1. In case SC No. SC/1334/2020, titled as *NCB Vs. Gaurav Aggarwal & Ors*, petitioner is facing trial for the offences under Sections 8/22 & 29 of Narcotic Drugs and Psychotropic Substances Act, 1985. Petitioner was arrested by the officials of Narcotic Control Bureau ('NCB') on 11.01.2020 and is in judicial custody since 11.01.2020. Vide present petition, petitioner is seeking bail while claiming to be innocent and of having been falsely implicated in the present case.

2. The present petition has been filed on the ground that petitioner is a

law abiding citizen and is running business in the name of Madhav Pharma for sale, purchase and transport of various medicines while holding valid drug license under Form 20B & 21B of Drugs & Cosmetics Act, 1945. Petitioner has pleaded that he has maintained all records complying with all the terms and conditions of the license. Petitioner has further pleaded that no contraband was recovered from his possession and he has been falsely implicated in this case.

3. The crux of the prosecution case, as per complaint dated 09.01.2020, is that upon receipt of secret information by Chetan Sharma, Intelligence Officer (IO) that one parcel bearing Airway Bill No. D90471207, booked by one Gaurav Kumar from Agra for delivery to one Manoj Kumar, at Ludhiana, Punjab is lying at DTDC, Khasra No. 16/06, Smalakha, Kapasehra, New Delhi is suspected of containing NRX tablets and if captured, huge quantity of narcotic tablets can be recovered. This information was reduced into writing and was placed before Amit Kumar Tiwary, Superintendent, who directed Manoj Kumar, Junior Intelligence Officer, to constitute a team and take further action as per law. Thereafter, Manoj Kumar, Junior Intelligence Officer along with other members of the constituted raiding team, namely, Raj Kumar Maurya, Intelligence Officer,

Ajay Kumar, Speoy and N.P. Singh, Driver, collected the DD kit, weighing machine I.O. kit and other related seizing material and seal of Narcotic Control Bureau DZU-2. The team left the Delhi office and reached at above mentioned address and met Durgesh Prasad, Vigilance Senior Executive of DTDC. After introducing themselves by showing their identify cards, informed about their purpose of coming and requested him and his colleague, one Aas Mohd. Khan, to become independent witnesses for the search and seizure proceedings, to which they accepted. Manoj Kumar, Junior Intelligence Officer, offered these independent witnesses to search him and his team members, to which they declined. Thereafter, the suspected article was opened in the presence of these two independent witnesses. On opening the said parcel, it was found to be jute bag, on which and on the bill, the name of the consignor was written as Gaurav Kumar, Agra (U.P.) and consignee was written as Manoj Kumar, Campa Cola Chowk, Ludhiana-141003.

4. When the said jute bag was opened, a brown card box was found which contained 50,000 tablets of Tramadol weighing 20 kg. Since these were being sent as mis-declared item without bill and were in contravention of the NDPS Act, therefore, seizure proceedings were initiated after due

procedure. A notice under Section 67 of NDPS was issued to independent witnesses-Durgesh Prasad and Aas Mohd. Khan. Thereafter, Manoj Kumar, Intelligence Officer, collected relevant information about Gaurav Kumar of Agra and Manoj Kumar of Ludhiana from DTDC office and as mentioned on Airway Bill and prepared disclosure to this effect. The disclosure statement of Manoj Kumar Yadav, Intelligence Officer was placed before Amit Kumar Tiwary, Superintendent, who directed Sh. Sachin Kumar, Intelligence Officer to take action against Gaurav Kumar of Agra and Manoj Kumar of Ludhiana as per law.

5. On the next day, i.e. 10.01.2020, after making relevant entries in the test memo form, the samples seized from the office of DTDC on 09.01.2020 were sent to Chemical Engineer, CRCL Pusa Road, New Delhi through Sh. Yogesh Kumar Sharma, Sepoy. On the same day i.e. 10.01.2020 Manoj Kumar Yadav, Junior Intelligence Officer, gave his seizure report to Amit Kumar Tiwary, Superintendent. Consequent upon marking of aforesaid disclosure, Manoj Kumar Yadav, Junior Intelligence Officer on 10.01.2020 along with members of his fresh constituted raiding team reached at the office of DTDC, Mathura Road, Agra and Gaurav Kumar Aggarwal was called at the DTDC office by their staff members and there he was served

with notice under Section 67 of NDPS Act.

6. On the same day, i.e. 10.01.2020, Gaurav Kumar Aggarwal, in the office of DTDC office, gave his voluntary statement under Section 67 of NDPS Act before Anand Kumar, Intelligence Officer. He was fully apprised of the procedure prescribed under Section 67 of NDPS Act, however, Gaurav Kumar Aggarwal, accepted his guilt and stated that on 06.01.2020, he had booked a parcel in the name of Manoj Kumar, Campa Cola Chowk, Ludhiana, Punjab with DTDC courier, Sikandra Road, Agra, containing 50,000 tablets of Tramadol which was purchased by him from Mohit Aggarwal (petitioner herein) without bill. He admitted that the said parcel contained 50,000 tablets of Tramadol, which fall under contraband narcotic drugs, were without prescription and bill, therefore, on the parcel it was mentioned "surgical items".

7. The said Gaurav Kumar Agarwal, further stated that Mohit Aggarwal purchased these medicines from Pramod Jaipuri @ Davinder Khandelwal and gave their mobile numbers. He further disclosed that Pramod Jaipuria, lives in Jaipur but his son in law, Gaurav Khandelwal, used to look after his business in Agra and he had a godown of drugs in Agra and that whenever Pramod Jaipuria visited Agra, he lived in Hotel Chanderlok, Raja Mandi. He

further disclosed that he knew house and shop of Mohit Aggarwal and can identify them and their places if NCB officials ask him to accompany. Thereafter, Gaurav Kumar took the raiding team to Mohit Kumar Aggarwal, on whose disclosure raiding team reached the house of Doji Ram, where Pramod Kumar Jaipuria @ Davinder Khandelwal was running his godown, there the raiding team met one Rambir, the watchman, who disclosed that the godown belonged to Pramod Kumar Jaipuria @ Davinder Khandelwal, who was doing business of medicines and he called him up on his mobile and informed that the NCB team has come to his godown and after hearing this, Pramod Kumar Jaipuria @ Davinder Khandelwal disconnected the phone and switched off his mobile. Thereafter, upon following the due procedure as per law, the search was conducted at the godown and huge quantity of drugs covered under the NDPS Act was seized. On the said day itself, notice under Section 67 of the NDPS Act was served upon Mohit Aggarwal. Both, Gaurav Kumar Aggarwal and Mohit Aggarwal voluntarily agreed to accompany the raiding team to Delhi.

8. On 10.01.2020, Sachin Kumar, Intelligence Officer, along with his raiding team, headed towards office of DTDC at Ludhiana. When Manoj Kumar reached at DTDC office and asked for his parcel, Sachin Kumar,

Intelligence Officer, spoke to him and told him their purpose of coming there and on asking about the parcel, Manoj Kumar stated that he is a whole seller of medicines and is involved in the sale and purchase of medicines and he accepted to have placed an order for 50,000 tablets of Taramol from Gaurav Kumar Aggarwal and that he had come to collect the parcel and also that he had all the relevant documents at his shop Tredwell Health Care and if the NCB officials accompany him to the shop, he can show the entire documents. The NCB team members along with local police officials visited his shop and Manoj Kumar showed certain documents, which were found to be not relating to narcotics. On verification of those documents, it revealed that Manoj Kumar did not have any document with regard to sale and purchase of narcotic drugs. Upon further inspection of stock available at his shop, it was further revealed that a huge quantity of different narcotic drugs were available at his shop, without any relevant document in that regard and Manoj Kumar admitted to have sold a few without any prescription and bill and so, the medicine stock was sealed under the provisions of NDPS Act. On that day i.e. 10.01.2020, Manoj Kumar was served with Notice under Section 67 of NDPS Act and he gave his voluntary statement before Sachin Kumar, Intelligence Officer.

9. On the next day i.e. 11.01.2020 petitioner-Mohit Kumar Aggarwal gave his voluntary statement under Section 67 of NDPS Act, before Sh.R.K. Maurya, Intelligence Officer, wherein he admitted his guilt and complicity for the commission of offence of this case. He stated that two-three years ago he took a shop on rent and started business of medicines and Gaurav Kumar Aggarwal used to buy medicines from his shop. He further stated that Gaurav Kumar Aggarwal had purchased five boxes of Tramadol, out of which one box of 50,000 tablets was bought from Pramod Jaipuria. He also admitted that he can identify Pramod Jaipuria and his godown situated in Agra.

10. For the recovered narcotic substances i.e. 50,000 tablets of Tramadol from DTDC courier weighing 20 kgs, 6,64,940 tablets/ capsules weighing 328.82kg, 1400 injections amounting to 1.4 ltrs and 80 corex amounting to 8 ltrs syrup seized from Agra & 9,900 tablets weighing 990 gms, the seizure memos were prepared by the Intelligence Officers concerned and sent for examination.

11. Consequent upon recovery of contraband and on the basis of voluntary statements, Mohit Kumar Aggarwal was arrested on 11.01.2020 for the offences under Sections 8,22 and 29 NDPS Act as per procedure

prescribed. On 12.01.2020, Shri R.K.Maurya, Intelligence Officer gave the arrest report of Mohit Kumar Aggarwal under Section 57 of the NDPS Act to Amit Kumar Tiwary, Superintendent, NCB-DZU.

12. Petitioner's application for bail was dismissed by the learned trial court vide order dated 21.07.2020, while observing as under:-

"In present case also, the present accused is found connected as per the statement of co-accused, he purchased the said recovered drugs from the present accused and thereafter, at the instance of both the accused, huge recovery of contraband was effected. The accused persons were also found connected through mobile phones. The twin conditions envisaged u/S 37 are required to be satisfied before granting the bail to the accused. At this stage, it cannot be held that there are no reasonable grounds exist that accused is not guilty of the offence alleged. The reasonable ground mean something more than prima facie ground. Merely the factum that there is no documentary evidence is no ground that no prima facie case is made out. The judgment of Surender Khanna as relied by the Ld. Counsel for accused, is not applicable at this stage. Apex Court in case titled as Mohd. Fasin Vs. State Crl. Appeal No. 296/2014 dated 04.09.2019 held that even if confession made to the investigating officers are held to be admissible under Section 67 of Narcotic Drugs

and Psychotropic Substances Act, 1985, the Court has to be satisfied that it is a voluntary statement, free from any pressure and also that the accused was apprised of his rights before recording the confession. Thus, it cannot be held that at this stage, statement u/S 67 of NDPS Act cannot be looked to see the prima facie case. At this stage, this Court is not supposed to appreciate the probative value of the material on record however, only has to see the prima facie case. The recovered contraband is commercial in nature thus, there is definite bar u/S 37 NDPS Act over the release of accused on bail however, it cannot be held at this stage there are reasonable grounds to believe that accused is not guilty of the offence and is not likely to commit any offence while on bail. Considering the material on record and in view of the above discussion, I found no ground to release the applicant/accused Mohit Aggarwal on bail. Hence, the present application is dismissed.”

13. At the hearing, learned senior counsel for petitioner submitted that the rejection of bail by the trial court is without application of mind, as the learned trial court has failed to appreciate that name of petitioner popped up in this case when accused Gaurav Kumar Aggarwal in his voluntary statement took petitioner's name and the said voluntary statement was partly

recorded in Agra and partly in Delhi and accused Gaurav Kumar Aggarwal has retracted from his statement at the first available opportunity itself. Learned senior counsel pointed out that accused Gaurav Kumar Aggarwal had taken the NCB team to the shop of petitioner and the shop was searched by the NCB team but nothing incriminating was recovered from the shop.

14. It is next contended by learned senior counsel for petitioner that petitioner was served with notice under Section 67 of NDPS Act and his statement was recorded by R.K.Maurya, Intelligence Officer and the petitioner had retracted from the said statement on the first available opportunity.

15. Learned senior counsel also submitted that in the statement of Manoj Kumar of Ludhiana, recorded under Section 67 of NDPS Act, he has not named petitioner herein and he has retracted from his statement. It has also been pointed out that the tablets and material seized on 09.01.2020 is different from the description of medical tablets, details of which have been sought by prosecution vide summon dated 27.04.2020 under Section 67 of NDPS Act and also that details of batch number and manufacturer are not mentioned therein.

16. Leaned senior counsel for petitioner vehemently submitted that apart

from retracted statements of co-accused involved in this case, no other material evidence has been placed on record to establish petitioner's involvement in the offence in question.

17. In support of petitioner's case, reliance has been placed upon decisions of Constitution Bench of Supreme Court in ***Hari Charan Kurmi & Anr. Vs. State of Bihar (1964) 6 SCR 623; Kashmira Singh Vs. State of Madhya Pradesh AIR 1952 SC 159; Mohd. Fasrin Vs. State 2019 (8) SCC 811 and Surinder Kumar Khanna Vs. Intelligence Officer Directorate of Revenue Intelligence (2018) 8 SCC 271.*** Reliance has also been placed upon recent decision of Hon'ble Supreme Court in ***Tofan Singh Vs. State of Tamil Nadu 2020 SCC OnLine SC 882.***

18. On the other hand, learned Special Public Prosecutor appearing for respondent /NCB supported the impugned order dated 21.07.2020 rejecting petitioner's bail application and submitted that the offence committed by the petitioner comes under the category of recovery of commercial quantity and since there is an embargo of Section 37 of NDPS Act, the present petition deserves to be dismissed. Reliance was placed upon decision of Hon'ble Supreme Court in ***State of Kerala & Ors. Vs. Rajesh & Ors. (2020) 12 SCC 122.***

19. Learned Special Public Prosecutor appearing for respondent /NCB further submitted that petitioner has tendered his voluntary statement under Section 67 of NDPS Act before the competent officer, wherein he has admitted his guilt. He further submitted that the analysis of call detail records of petitioner and other co-accused in this case shows criminal conspiracy for their involvement in illicit trafficking of drugs.

20. It was next submitted that statement tendered by petitioner under Section 67 of NDPS Act is admissible in evidence and has evidentiary value as per NDPS Act. Learned Special Public Prosecutor submitted that reliance placed upon various afore-noted decision is of no help to the case of petitioner as in those cases the aspect of statement of accused recorded, has not been dealt with. Thus, dismissal of the present petition is sought by Special Public Prosecutor appearing for respondent /NCB.

21. The rival contentions raised by both the sides have been considered.

22. As per the prosecution case, 50,000 tablets of Tramadol weighing 20 kgs, 6,64,940 tablets/ Capsules weighing 328.82kg, 1400 injections amounting to 1.4 ltrs and 80 corex amounting to 8 ltrs syrup & 9,900 tablets weighing 990 gms were recovered in this case.

23. It is an admitted case of both the sides that name of petitioner popped

up in this case in the statement made by co-accused Gaurav Kumar Aggarwal. It is also an admitted case that at the behest of Gaurav Kumar Aggarwal, the NCB team visited the shop of petitioner and upon search, nothing incriminating was recovered. The solitary ground to involve petitioner in the present case is his statement made under Section 67 of NDPS Act, which he had retracted at the first opportunity available to him.

24. Pertinently, Section 67 of NDPS Act reads as under:-

“67. Power to call for information, etc.—Any officer referred to in section 42 who is authorised in this behalf by the Central Government or a State Government may, during the course of any enquiry in connection with the contravention of any provisions of this Act,—

(a) call for information from any person for the purpose of satisfying himself whether there has been any contravention of the provisions of this Act or any rule or order made thereunder;

(b) require any person to produce or deliver any document or thing useful or relevant to the enquiry;

(c) examine any person acquainted with the facts and circumstances of the case.”

25. A perusal of petitioner's statement recorded under Section 67 of NDPS Act on 09.01.2020 reveals that Gaurav Kumar Aggarwal used to buy medicines from his shop and on the said day i.e. 09.01.2020, he along with

NCB team came to his shop and introduced him to them and they told him that they had come to inquire about 50,000 tramadol tablets which were sent by Gaurav Kumar Aggarwal to Manoj in Ludhiana and he admitted that a few days ago he had purchased 05 boxes of tramadol tablets from Pradeep Jaipuria illegally, which were bought by Gaurav Kumar Aggarwal, out of which he had returned 03 boxes due to money crisis and those 03 boxes he had returned to Pradeep Japuria. In his statement, petitioner admitted that he along with Gaurav Kumar Aggarwal had escorted the NCB team to the godown of Pradeep Jaipuria. Besides petitioner has admitted that on two-three occasions, he had sold narcotic tablets purchased from Pradeep Jaipuria to Gaurav Kumar Aggarwal for extra amount of Rs.2,000/-.

26. The petitioner's statement was recorded for the second time on 10.01.2020 at the NCB office, however, its copy has not been placed on record. Petitioner had retracted from his statements on the first available opportunity made available to him.

27. Recently, the Hon'ble Supreme Court, by majority view while answering to a reference with regard to the evidentiary value of Section 67 of NDPS Act in *Tofan Singh (Supra)* has held as under:-

“158. We answer the reference by stating:

(i) That the officers who are invested with powers under section 53 of the NDPS Act are “police officers” within the meaning of section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.

(ii) That a statement recorded under section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act.”

28. In the aforesaid view of the matter, the Hon’ble Supreme Court sent back the appeals and special leave petitions to the Division Benches of the Hon’ble Supreme Court to hear them in the light of aforesaid view.

29. Reciting a dissenting view in *Tofan Singh (Supra)*, Hon’ble Ms. Justice Indira Banerjee observed that any statement made or document or other thing given to an authorised officer referred to in Section 42 of the NDPS Act or an officer invested under Section 53 with the powers of an Officer in Charge for the purpose of investigation of an offence under the said Act, in the course of any inquiry, investigation or other proceeding, may be tendered in evidence in the trial of an offence under the said Act and proved in accordance with law. The Hon’ble Judge also observed that she

was unable to agree that a statement recorded under Section 67 of the NDPS Act cannot be used against an accused offender in the trial of an offence under the NDPS Act. On this aspect, the aforesaid Bench of the Hon'ble Supreme Court observed as under:-

“262. An officer empowered under Section 53 with the powers of an Officer in Charge of a Police Station for the investigation of an offence, also has the power to make an inquiry. This is clear from the language used in Section 53A(1) of the NDPS Act. The words “A statement made and signed by a person before any officer empowered under Section 53 for the investigation of offences, during the course of any inquiry or proceedings by such officer” clinches the issue. The officer empowered under Section 53, with the power of an Officer in Charge of a Police Station, can obviously make an inquiry within the meaning of Section 67 to find out whether there has been any contravention of the NDPS Act. A statement made before such an officer in course of any inquiry or other proceeding, which is taken down in writing and signed by the person making it, may in certain circumstances, be relevant for the purpose of proving, in any prosecution for an offence under the NDPS Act, the truth of the facts it contains.”

30. Further, on the value of a confession made by a person, Hon'ble Ms.Justice Indira Banerjee held as under:-

“308. A confession made by an accused person is irrelevant in a criminal proceeding, if it appears to the Court that the confessions may have been elicited by any inducement, threat or promise from a person in authority and sufficient, in the opinion of the Court, to give the accused person reasonable grounds, for supposing that by making the confession, he would gain any advantage or avoid any disadvantage in respect of proceedings against him.

309. As observed by this Court in the State of Rajasthan v. Raja Ram “confessions may be divided into two classes i.e. judicial and extra-judicial. Judicial confessions are those which are made before a Magistrate or a Court in the course of judicial proceedings. Extra-judicial confessions are those which are made by the party elsewhere than before a Magistrate or Court. Extra-judicial confessions are generally those that are made by a party to or before a private individual which includes even a judicial officer in his private capacity. It also includes a Magistrate who is not especially empowered to record confessions under Section 164 of the Code or a Magistrate so empowered but receiving the confession at a stage when Section 164 does not apply. As to extra-judicial confessions, two questions arise : (i) were they made voluntarily and (ii) are they true?”.

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“An extra-judicial confession, if voluntary and true and made in a fit state of mind, can be relied upon by the Court. The confession will have to be proved like any other fact. The value of the evidence as to confession, like any other evidence, depends upon the veracity of the witness to whom it has been made. The value of the evidence as to the confession depends on the reliability of the witness who gives the evidence. It is not open to any court to start with a presumption that extra-judicial confession is a weak type of evidence. It would depend on the nature of the circumstances, the time when the confession was made and the credibility of the witnesses who speak to such a confession.”

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“If the evidence relating to extra-judicial confession is found credible after being tested on the touchstone of credibility and acceptability, it can solely form the basis of conviction. The requirement of corroboration as rightly submitted by the learned counsel for the respondent-accused, is a matter of prudence and not an invariable rule of law.”

31. With afore-noted pertinent observations, Hon’ble Ms. Justice Indira Banerjee, held that provisions of Cr.P.C. do not apply to an inquiry / investigation under the NDPS Act except to the limited extent provided in

Section 50(5) and 51 of the Act. It was further held that “*the decision of Hon’ble Supreme Court in Raj Kumar Karwal (supra), which has reaffirmed the verdict of three Constitution Benches, does not require reconsideration and nor does Kanhaiyalal (supra) require reconsideration.*”

32. Keeping in mind the observations made in ***Tofan Singh (Supra)*** and upon a bare reading of petitioner’s statement recorded on 09.01.2020, it is apparent that petitioner has not admitted that he was a party to the transaction or in possession of recovered and seized contraband substance. Though he has admitted in custody to have illegally traded the tablets under the NDPS (*which is now inadmissible, unless proved otherwise*) but since no recovery has been affected from his person or shop in this case, prosecution can only attempt to prove its case on the basis of circumstantial evidence, that is to say, by corroborating the call detail record or other material available and reliance cannot be solely placed upon disclosure statement of co-accused to keep him behind bars, especially when the recoveries of the instance were before the arrest of the petitioner and the statement given by co-accused has been retracted at the first available opportunity.

33. Respondent/NCB has placed reliance upon Hon’ble Supreme Court’s decision in *State of Kerala Vs. Rajesh (Supra)*. In the said decision, the

Hon'ble Supreme Court dealt with a case where the post arrest bail of accused was dismissed by the trial court holding that there was *prima facie* material to presume that the accused had committed offence punishable under Section 20(b) (ii) (c) and Section 29 of NDPS Act and the High Court without noticing Section 37 of the NDPS Act granted bail to the accused on parity basis with other co-accused in that case, who were already on bail. The Hon'ble Supreme Court observed that "*the High Court had failed to record a finding under Section 37 of the NDPS, which is a sine qua non for granting bail to the accused under the NDPS Act*". Appeal preferred by the prosecution was allowed and order of the High Court was set aside and bail granted to the accused was cancelled.

34. Pertinently, the provisions of Section 37 of NDPS Act read as under:-

"37. Offences to be cognizable and non-bailable—

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) —

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for 2[offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, 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.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force, on granting of bail.]”

35. In the case in hand, investigation is said to be complete. As per impugned order dated 21.07.2020 complaint/charge sheet has already been filed, however, besides confessional statement recorded under Section 67 of NDPS Act, no other material is forthcoming. Since no incriminating material was recovered at the instance of petitioner, this strengthens the view of this Court that petitioner is not likely to commit offence if released on bail. Moreover, nothing stops the prosecution to prove its case on merits during trial. In the aforesaid view of the case, requirements under Section 37 of NDPS Act are fulfilled.

36. In the peculiar facts and circumstances of the case, without commenting on the merits, petitioner is directed to be released forthwith on his furnishing personal bond in the sum of Rs.25,000/-, and one surety in the like amount to the satisfaction of trial court/duty magistrate subject to the condition that:-

- (i) Petitioner shall not directly or indirectly tamper with the evidence or influence the witnesses of the case;
- (ii) Petitioner shall provide his mobile number to the IO and ensure that he is reachable.

37. The petition is allowed in aforesaid terms. Pending application also stands disposed of.

38. A copy of this order be transmitted to the Jail Superintendent concerned and trial court for information and necessary compliance.

(SURESH KUMAR KAIT)
JUDGE

MARCH 16, 2021

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