



2024:DHC:1263



* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on: 09.01.2024
Pronounced on: 20.02.2024

+ **BAIL APPLN. 1130/2022**

HIKMATULLAH HIKMATI

..... Applicant

Through: Mr.Siddharth Srivastava,
Mr.Saurav Sharma, Mr.Sidak S.
Kalra and Ms.Khushi Gupta,
Advs.

versus

NARCOTICS CONTROL BUREAU

..... Respondent

Through: Mr.Utsav Singh Bains, SPP
(through VC)

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

1. This application has been filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973 (in short, 'CrPC') read with Section 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, 'NDPS Act') seeking bail in SC No. 57/2020, titled as *NCB v. Noorzai Gulamin & Ors.*, pending in the Court of the learned Special Judge, NDPS Act, Patiala House Courts, New Delhi, under Sections 8A / 21(C) / 23(C) and 29 of the NDPS Act.

2. It is the case of the prosecution that on 17.08.2019, at about 11:30 hours, on a secret information received, a person, namely, Mr.Noorzai Gul Amin, an Afghan National, was apprehended from the Arrival Terminal-3, Indira Gandhi International (IGI) Airport,



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New Delhi. On inquiry from him, he accepted that he has swallowed certain capsules containing Narcotic Drugs. He was, then, taken to the Safdarjung Hospital, where he was admitted on 17.08.2019. On 20.08.2019, the doctors informed that there is no foreign body left in the stomach of the applicant, therefore, he was discharged from the Safdarjung Hospital. At the hospital, he expelled a total of 119 capsules through the passage of stool. One of such capsule wrapped in transparent packet was taken and cut opened. It was found to be containing a white colour powdery substance. A small amount of the powdery substance was taken and tested with the help of the field testing kit, which gave a positive result for Heroin. A similar exercise was conducted for the remaining 118 capsules with the help of field testing kit, which all gave positive results for Heroin. The powdery substance recovered from total 119 capsules was, thereafter, collected in transparent polythene and was weighed to be 770 grams. The whole recovered white coloured powdery substance was, thereafter, mixed homogeneously and two representative samples of 05 grams each were drawn and put inside two transparent zip lock pouches and further kept into separate white colour paper envelopes, giving them Mark A-1 and A-2 respectively.

3. It is further alleged that on 20.08.2019, accused Noorzai Gul Amin disclosed that he belongs to a village Gurz of Farah Province in Afghanistan. He had met one person in Kandhar who took him to an other person, namely, Nimahtullah Mangal, who in turn offered him a sum of Rs.50,000/- to carry narcotic drugs capsules to India in his stomach. He further disclosed that Nimahtullah Mangal had asked him



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to hand over the capsules after reaching India to one person called 'Doctor'. He stated that Nimahtullah Mangal also gave the mobile number of the said Doctor. He also stated that Nimahtullah Mangal would be arriving in India on 21.08.2019.

4. The prosecution alleges that based on the disclosure statement of Noorzai Gul Amin, Nimahtullah Mangal was arrested when he landed in India on 21.08.2019. It is further alleged that Nimahtullah Mangal, in his voluntary statement, admitted that about 7 to 8 months back, he had met a person named Abdul Khaliq, who offered him handsome money for arranging Visa for India for persons who would carry Heroin capsules to India by swallowing them. He stated that Abdul Khaliq told him to arrange contact in India for sale of the drugs. He stated that he then spoke to Dr. Allah Noor Noorzai and told him that Noorzai Gul Amin would be coming to India with drugs. The drugs carried by Noorzai Gul Amin were to be supplied to Dr. Allah Noor Noorzai and John @ Hikmatullah Hikmati, the applicant herein. It is stated that Nimahtullah Mangal provided the mobile number of Dr. Allah Noor Noorzai to the Narcotics Control Bureau (NCB) and also said that he can show the house where he shall be available.

5. The prosecution further alleges that a team of NCB Officers went to the house of the applicant herein, at Lajpat Nagar. Nimahtullah Mangal knocked at the door and also called for the applicant. The applicant opened the door on which Nimahtullah Mangal identified him as the receiver of the drugs. Dr. Allah Noor Noorzai also came to the door and was identified by Nimahtullah



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Mangal. A search of the house was conducted but no drugs were found, though some documents and currency were found in the house.

6. The prosecution further alleges that on 22/23.08.2019, the applicant disclosed that around ten days ago, Nimahtullah Mangal had contacted Dr. Allah Noor Noorzai and told him that his friend Abdul Khaliq wants to do his drug business and is sending one person by a flight on 17.08.2019, while he himself would be coming to Delhi on 21.08.2019. He further told that the Heroin through the accused Noorzai Gul Amin would be supplied to Stanly @ Johri (Alex) and Nice. He stated that they used to hand over the drugs to the above two named persons and used to collect money from them to be handed over to the Afghani sent by the smugglers.

7. Dr. Allah Noor Noorzai is also stated to have made a disclosure statement on 22.08.2019, wherein he stated that 8-9 days back Nimahtullah Mangal had called him and told him that his uncle Abdul Khaliq is in the business of drugs and will be sending one person with Heroin capsules on 17.08.2019, while he himself will be coming on 21.08.2019 to Delhi to collect 6000 USD pending for the last delivery supplied to one Chinonso Stanly Alex through him and the applicant herein. He stated that the Heroin carried by the accused Noorzai Gul Amin was also supplied to Chinonso Stanly Alex, who was living along with his brother Goddy and 2-3 other Nigerian at Anand Vihar. He identified the phones of Nimahtullah Mangal and Godday Nemoyne.



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8. It is stated that on 22.08.2019, a team of NCB Officers reached at Anand Vihar along with the applicant. The applicant knocked at the door, which was opened by the person one Godday Nemoyne. On search, the NCB Officers felt that others present there had ran away. It is further alleged that on search of kitchen cupboard, one white and red colour cloth bag containing white colour transparent polythene was found, which was containing white colour powdery substance. The polythene was opened and a sharp smell was felt. A small amount of substance was taken and tested with the help of field testing kit, which gave positive result for Heroin. It weighed to be 3.400 Kg. Two representative samples were drawn from it, each weighing 05 grams.

9. Godday Nemoyne is alleged to have made a voluntary statement stating that the applicant herein, Stanley Chinonso Okorie @ Right Bright, and Alex were present in the house and had escaped from the kitchen window. He is alleged to have further disclosed that the applicant used to come to his flat to give Heroin to Stanley and take money. He is alleged to disclose that Stanley Chinonso Okorie @ John is engaged in purchasing huge quantity of Heroin and Cocaine from Afghani persons and along with Festus Obonor, Collins Nnebolinsa, and Alex Edet Nelson used to sell the drugs. He also used to arrange fake passports for hiding original identity to do drug business.

10. It is alleged that based on the above, the applicant was arrested on 23.08.2019 and was charged under Section 8A, 21, 23 & 29 of the NDPS Act.



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11. It is further alleged that reports were received from CRCL, Pusa Road, New Delhi, which stated that the seized samples were found positive for Diacetylmorphine (Heroin).

12. The mobile phone of the applicant was also studied and mirror image of deleted data and data stored in mobile extracted from mobile showed chats regarding Heroin with Stanley, Hazilala at Afghanistan, amongst other materials.

13. After further investigation, Stanley Chinonso Okorie @ John was also apprehended, who is also stated to have given a disclosure statement. It is also alleged that on information regarding Chinonso Stanley Okorie, Alex Edet Nelson, Collins Nnebolinsa and Bright Right, being at deportation center at Lampur, request for their handover to the NCB was made for investigation in the drugs case. On disclosure by one of the accused Bright Right, that they use to keep drugs in their house in Islampur village, Gurugram, the NCB conducted a raid in the house in Islampur and found a polythene in the almirah containing white color powdery substance. A small pinch of the substance was tested with the help of field testing kit which gave a positive result for Cocaine. Two representative samples of 0.5 grams each were drawn and put inside ntwo transparent zip lock pouches and further kept in a two separate white colour paper envelops and given mark A-I and A-2.

14. Alex Edet Nelson and Chidi Collins are also stated to have given their disclosure statement of involvement.



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15. The prosecution alleges that all the accused, including the applicant herein, were in conspiracy with each other and found to be in possession of 770 grams and 3.400 kg of heroin and 220 grams of cocaine.

Submissions of the learned counsel for the Applicant

16. The learned counsel for the applicant submits that the procedure of sampling carried out by the respondent is not in terms of the Standing Order Nos. 1/88 dated 15.03.1988 issued by Narcotics Control Bureau and 1/89 dated 13.06.1989 issued by the Department of Revenue, Ministry of Finance, Government of India (hereinafter referred to as the 'Standing Orders'). He submits that it is the own case of the prosecution that a total number of 119 capsules were recovered from the co-accused Mr. Noorzai Gul Amin. The samples from these 119 capsules were drawn and tested. Thereafter, the contents of these 119 capsules were mixed together to form a whole from which samples were thereafter drawn. He submits that the same would be a violation of the abovementioned Standing Orders. He submits that this, itself, would create a doubt on the case of the prosecution, entitling the applicant to be released on bail. In support, he places reliance on the judgments of this court in ***Amani Fidel Chris v. Narcotics Control Bureau*** (2020) SCC OnLine Del 2080; ***Betty Rame v. Narcotics Control Bureau*** (2023) SCC OnLine Del 3279; and, ***Ginkala Meddilety v. State*** (2023) SCC OnLine Del 5450.

17. He further submits that, in any event, the sampling exercise was not carried out before a Magistrate. He submits that the same would



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again be a violation of Section 52A of the NDPS Act, and no reliance can, therefore, be placed on the result of such sampling. The entire prosecution case would stand vitiated.

18. He submits that, in the present case, realising the above folly, the prosecution moved an application under Section 52A of the NDPS Act on 07.02.2022 before the learned Magistrate for drawing the samples from the capsules, and on 13.02.2022, for conducting the sampling of the alleged recovery made from the house. These applications were allowed on 18.01.2023 and 25.02.2023 respectively. He submits that, in fact, these samples have, till date, not been sent for testing to the CFSL. He submits that, therefore, the sampling in accordance with Section 52A of the NDPS Act had not been conducted for more than 3 years since the date of the alleged seizure. He submits that this itself would vitiate the entire trial and would entitle the applicant to at least be released on bail. In support, he places reliance on the judgements of the Supreme Court in *Simranjit Singh v. State of Punjab*, (2023) SCC OnLine SC 906; *Yusuf @ Asif v. State*, (2023) SCC OnLine SC 1328; *Union of India v. Mohanlal*, (2016) 3 SCC 379; and of this court in *Kashif v. Narcotics Control Bureau*, (2023 SCC OnLine Del 2881; and, *Priyaranjan Sharma v. State of NCT of Delhi*, (2022) SCC OnLine Del 407.

19. He further submits that the only other piece of evidence relied upon by the prosecution against the applicant is the alleged disclosure of the premises at Anand Vihar. He submits that the address of the said premises had been disclosed by the co-accused Mr. Allah Noor on 22.08.2019 itself. As per the prosecution, the applicant disclosed the



said address in his statement made on 23.08.2019. He submits that once the information is already in the knowledge of the prosecution, the same would not fall within the ambit of Section 27 of the Indian Evidence Act, 1872 (hereinafter referred to as the 'Evidence Act'). He submits that in any case, merely because the applicant disclosed an address, it would not tantamount to the recovery made from such address to be considered as being disclosed by the applicant. In support, he places reliance on *Phundreimayum Yas Khan v. State (GNCT of Delhi)*, 2023 SCC OnLine Del 135.

20. He submits that for the above submissions made, the applicant is entitled to be released on bail and the presumption as contained in Section 37 of the NDPS Act would not act as a bar.

Submissions of the learned APP

21. On the other hand, the learned APP submits that apart from the above material and evidence, the prosecution is also placing reliance on certain whatsapp chats that were exchanged between the applicant and the co-accused.

22. He further submits that the effect of any alleged defect in the sampling procedure or delay in the same, has to be considered by the Court at the time of the trial, and it cannot be a ground to release the applicant on bail. He submits that the purpose of Section 52A of the NDPS Act is for the disposal of the case property after making inventory and keeping the samples of seized contraband. It is for the purpose of keeping representative samples for being exhibited during the course of the trial as primary evidence. He submits that the



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Standing Orders No.1/88 and 1/89 are merely advisory in nature and not mandatory. Their non-compliance is neither fatal to the case of the prosecution nor does it entitle the accused to be released on bail. The effect of such non-compliance can only be determined at the conclusion of the trial, where the accused would have to show the prejudice caused due to such non-compliance. He submits that, in the present case, there was a substantial compliance with the said Standing Orders and, therefore, the accused not be released on bail.

23. He further submits that, in the present case, merely because the samples have not been drawn before the learned Magistrate in compliance with Section 52A of the NDPS Act, the applicant cannot be released on bail, nor can it be said that the same will be fatal to the case of the prosecution. He submits that the effect of such non compliance can only be determined at the conclusion of the trial where the accused would have to show the prejudice caused due to such non compliance.

24. In support of the above submissions, he places reliance on the judgments of this Court in *Masibur Khan v. State (Govt. Of NCT of Delhi)*, 2023 SCC OnLine Del 3326; *Shailender v. State of NCT of Delhi*, 2022 SCC OnLine Del 4896; and *Saddad Alam v. State (Govt. Of NCT Delhi)*, Neutral Citation No. 2023:DHC:7494, and of the High Court of Bombay in *Mukesh Rajaram Choudhari v. The State of Maharashtra*, Neutral Citation No.2023:BHC-AS:28549.

Analysis & Conclusion

25. I have considered the submissions made by the learned counsels for the parties.



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26. At the outset, it is to be noted that the applicant has been in custody since 23.08.2019, that is, for a period of more than four years. No recovery of contraband has been made from him. He is also not stated to be involved in any other criminal case.

27. It is also evident that the entire case against the applicant stems out of the alleged recovery made from Mr.Noorzai Gul Amin on his arrival in India. A total of 119 capsules are stated to be recovered from him. It is also not denied that the contents of these 119 capsules were mixed together to form a whole and from which samples were drawn, not before the Magistrate.

28. The learned counsel for the applicant has also submitted that though the recovery was made on 22.08.2019, application under Section 52A of the NDPS Act before the learned Magistrate was filed only on 13.02.2022, and samples were drawn only on 25.02.2023, that is, after a period of almost 1½ and 2½ years of the recovery.

29. In *Yusuf @ Asif* (Supra), the Supreme Court emphasised on the mandatory compliance with Section 52A of the NDPS Act, by observing as under:-

“12. A simple reading of the aforesaid provisions, as also stated earlier, reveals that when any contraband/narcotic substance is seized and forwarded to the police or to the officer so mentioned under Section 53, the officer so referred to in sub-section (1) shall prepare its inventory with details and the description of the seized substance like quality, quantity, mode of packing, numbering and identifying marks and then make an application to any Magistrate for the purposes of certifying its correctness and for allowing to draw representative samples of such



substances in the presence of the Magistrate and to certify the correctness of the list of samples so drawn.

13. Notwithstanding the defence set up from the side of the respondent in the instant case, no evidence has been brought on record to the effect that the procedure prescribed under sub-sections (2), (3) and (4) of Section 52A of the NDPS Act was followed while making the seizure and drawing sample such as preparing the inventory and getting it certified by the Magistrate. No evidence has also been brought on record that the samples were drawn in the presence of the Magistrate and the list of the samples so drawn were certified by the Magistrate. The mere fact that the samples were drawn in the presence of a gazetted officer is not sufficient compliance of the mandate of sub-section (2) of Section 52A of the NDPS Act.

14. It is an admitted position on record that the samples from the seized substance were drawn by the police in the presence of the gazetted officer and not in the presence of the Magistrate. There is no material on record to prove that the Magistrate had certified the inventory of the substance seized or of the list of samples so drawn.

15. In Mohanlal's case, the apex court while dealing with Section 52A of the NDPS Act clearly laid down that it is manifest from the said provision that upon seizure of the contraband, it has to be forwarded either to the officer-in-charge of the nearest police station or to the officer empowered under Section 53 who is obliged to prepare an inventory of the seized contraband and then to make an application to the Magistrate for the purposes of getting its correctness certified. It has been further laid down that the samples drawn in the presence of the Magistrate and the list thereof on being certified alone would constitute primary evidence for the purposes of the trial.

16. In the absence of any material on record to



establish that the samples of the seized contraband were drawn in the presence of the Magistrate and that the inventory of the seized contraband was duly certified by the Magistrate, it is apparent that the said seized contraband and the samples drawn therefrom would not be a valid piece of primary evidence in the trial. Once there is no primary evidence available, the trial as a whole stands vitiated.”
(Emphasis supplied)

30. In **Bothilal v. Narcotics Control Bureau**, 2023 SCC OnLine SC 498, the Supreme Court reiterated the same as under:-

“16. In paragraphs 15 to 17 of the Mohanlal's case, it was held thus:

“15. It is manifest from Section 52-A(2)include (supra) that upon seizure of the contraband the same has to be forwarded either to the officer-in-charge of the nearest police station or to the officer empowered under Section 53 who shall prepare an inventory as stipulated in the said provision and make an application to the Magistrate for purposes of (a) certifying the correctness of the inventory, (b) certifying photographs of such drugs or substances taken before the Magistrate as true, and (c) to draw representative samples in the presence of the Magistrate and certifying the correctness of the list of samples so drawn.

16. Sub-section (3) of Section 52-A requires that the Magistrate shall as soon as may be allow the application. This implies that no sooner the seizure is effected and the contraband forwarded to the officer-in-charge of the police station or the officer empowered, the officer concerned is in law duty-bound to approach the Magistrate for the purposes mentioned above including grant of permission to draw representative samples in his presence, which samples will then be enlisted and the correctness of the list of samples so drawn certified by the Magistrate. In other words, the process of drawing of



samples has to be in the presence and under the supervision of the Magistrate and the entire exercise has to be certified by him to be correct.

17. The question of drawing of samples at the time of seizure which, more often than not, takes place in the absence of the Magistrate does not in the above scheme of things arise. This is so especially when according to Section 52-A(4) of the Act, samples drawn and certified by the Magistrate in compliance with sub-sections (2) and (3) of Section 52-A above constitute primary evidence for the purpose of the trial. Suffice it to say that there is no provision in the Act that mandates taking of samples at the time of seizure. That is perhaps why none of the States claim to be taking samples at the time of seizure."

(emphasis added)

17. Thus, the act of PW-2 of drawing samples from all the packets at the time of seizure is not in conformity with what is held by this Court in the case of Mohanlal². This creates a serious doubt about the prosecution's case that the substance recovered was contraband."

(emphasis supplied)

31. In ***Simarnjit Singh*** (Supra), again, placing reliance on the earlier judgment of the Supreme Court in ***Union of India v. Mohanlal***, (2016) 3 SCC 379, the Supreme Court reiterated that where the samples were not drawn in conformity with Section 52A of the NDPS Act, it creates a serious doubt in the prosecution case about the substance recovered to be a contraband.

32. In ***Sandeep @ Chiku v. State (NCT of Delhi)***, Neutral Citation No.2024:DHC:528, this court has held that mixing of the material recovered from different packets and then drawing samples is not in accordance with the Standing Order No. 1/88 dated 15.03.1988 issued



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by Narcotics Control Bureau and the Standing Order No. 1/89 dated 13.06.1989 issued by the Department of Revenue, Ministry of Finance, Government of India.

33. The applicant has also made out a case for being released on bail on the ground of delay in the sampling procedure being carried out under Section 52A of the NDPS Act. The recovery was allegedly made on 22.08.2019; application under Section 52A of the NDPS Act was filed only on 13.02.2022 before the learned Magistrate; and samples were drawn only on 25.02.2023, that is, after a period of almost 1½ and 2½ years of the recovery.

34. In *Kashif* (Supra), a Coordinate Bench of this Court considered the effect of delay in the sampling procedure and held that even a delay of one and a half months, as was the case therein, raises a doubt sufficient enough to entitle the accused to be released on bail. The Court observed as under:-

“24. Hence, I am of the view that non-compliance of section 52A within a reasonable time gives rise to the apprehension that sample could have been tampered with and in case of a wrongly drawn sample, the benefit of doubt has to accrue to the accused. The prosecuting agency has to prove at the time of trial that the sample was immune from tampering.

25. In the present case, the sample was kept in the custody of the prosecuting agency for more than one and a half month, thus, raising doubt with regards to tampering of the same.

*26. Another reason which persuades me to take this view is that once the Apex Court has held in **Mohanlal** (supra) that the application under 52A has to be made without any undue*



delay, there should not be any reason for delaying the filing of application.

27. The application for sample collection under section 52A is not a technical application wherein elaborate reasons, principles of law or detailed facts are required. It is more of a clerical application and should mandatorily be made within a reasonable time under section 52A NDPS. The application has to be moved at the earliest and in case, the same has not been moved, the reasons for delay must be explained by the authorities.

Reasonable time under section 52A

28. What is reasonable time depends on the facts and circumstances of each case. However, it cannot be the intention of the legislature that an application for sample collection can be moved at the whims and fancies of the prosecuting agency. Therefore, taking cue from the Standing Order 1/88, it is desirable that the application under 52A should be made within 72 hours or near about the said time frame.

29. In the present case, the application for drawing of sample and certification of seizure memo under section 52A NDPS was filed on 22.04.2022 i.e., after 51 days from the period of last seizure on 02.03.2022.

30. A period of 51 days, by no stretch of imagination, can be called a reasonable period for filing an application under section 52A NDPS for drawing the sample. It cannot be that the contraband lying in the custody of the Narcotics Department for 51 days, in their power and possession, is immune from tampering and mischief. Furthermore, no reasons have been furnished by the Respondent for the delay of 51 days for moving an application under section 52A NDPS.



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31. In view of the above discussion, I hold that violation of Section 52A vitiates the sample collection procedure and the benefit of the same must accrue to the Applicant.

32. The application by the respondent under section 52A was filed after a delay of 51 days. At that time, the applicant did not object. However, the same being a legal objection can be raised at any stage.”

35. The same Bench followed its above view in ***Tamir Ali v. Narcotics Control Bureau***, 2023 SCC OnLine Del 3015.

36. In the present case, the above circumstances are themselves sufficient to cast a doubt on the alleged recovery of Heroin from the accused Noorzai Gul Amin, which is the primary basis of involving the applicant.

37. The learned counsel for the applicant has also submitted that the alleged disclosure statement of the applicant made on 23.08.2019, allegedly disclosing the where about of the house at Anand Vihar, also cannot be relied upon under Section 27 of the Evidence Act. He submits that the disclosure about the house and the accused persons, that is, Chinonso Stanly Alex, Nice, Goddy, etc., had already been made by the co-accused Dr. Allah Noor Noorzai in his statement recorded on 22.08.2019, that is, prior to the statement of the applicant.

38. This Court in ***Phundreimayum Yas Khan*** (Supra), has held as under:-

“21. I have heard learned counsel for the parties and gone through the documents. In the present case, I am to see the following:



The relevance of section 27 of the Indian Evidence Act

xxxx

c. Therefore, the disclosure statement made under Section 67 of the NDPS Act by the applicant can be held against him only if it falls within the exception of Section 27 of the Indian Evidence Act. In order to attract section 27 of the Indian Evidence Act, it is necessary that the information given by the applicant lead to discovery of some new fact which was not within the knowledge of police and that knowledge was first time derived from the disclosure made by the applicant. In addition, the information must be in relation to a material object. The discovery of some fact must relate to commission of some offence. In the present case, it is the case of the prosecution that the statement of the applicant lead to the discovery of Amarjit Singh Sandhu who was supposedly the main supplier of contraband."

39. Though the recovery of contraband (heroin) from the co-accused Mr.Noorzai Gul Amin is of commercial quantity, no recovery has been made from the applicant herein, and there is no material to link the said commercial quantity recovered from the co-accused Mr.Noorzai Gul Amin to the applicant, except for the disclosure statement by him. The admissibility of the alleged disclosure statement of the applicant is also doubtful, and the applicant has been languishing in jail for more than four years, and the applicant is not stated to be previously involved in similar offence, in my opinion, the applicant has been able to meet the test as laid down under Section 37 of the NDPS Act for being released on bail.



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40. Accordingly, it is directed that the applicant be released on bail in SC No. 57/2020 pending in the Court of the learned Special Judge, NDPS Act under Sections 8A/21(C)/23(C) and 29 of the NDPS Act on furnishing a personal bond in the sum of Rs.50,000/- with one local surety of the like amount subject to the satisfaction of the Ld. Trial Court, and further subject to the following conditions:

- i. The Applicant will not leave the country without the prior permission of the Ld. Trial Court.
- ii. The Applicant shall provide his permanent address to the Ld. Trial Court. The applicant shall also intimate the Court, by way of an affidavit, and to the IO regarding any change in his residential address.
- iii. The Applicant shall appear before the Ld. Trial Court as and when the matter is taken up for hearing.
- iv. The Applicant shall provide all/latest/fresh mobile numbers to the IO concerned, which shall be kept by the applicant in a working condition at all times and shall not be switched off or changed by him without prior intimation to the Ld. Trial Court and the IO concerned. The mobile location be kept on at all times.
- v. The Applicant shall not indulge in any criminal activity and shall not communicate with or come in contact, directly or indirectly, with any of the prosecution witnesses. In case the Applicant is found involved in another case, it will be open to the prosecution to file an appropriate application seeking cancellation of his bail in



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the present case as well.

- vi. The IO is further directed to issue a request to the Bureau of Immigration, Ministry of Home Affairs of the Government of India or other appropriate authority, to forthwith open a 'Look-out-Circular' in the Applicant's name, to prevent the Applicant from leaving the country, without the permission of the learned Trial Court.

41. Needless to state, any observation touching the merits of the case is purely for the purposes of deciding the question of grant of bail and shall not be construed as an expression on merits of the matter.

42. The bail application is disposed of in the above terms.

43. Copy of this judgment be sent to the Jail Superintendent for information and necessary compliance.

NAVIN CHAWLA, J

FEBRUARY 20, 2024/ns/ss

Click here to check corrigendum, if any