

**IN THE COURT OF ASJ/SPECIAL JUDGE/NDPS
PATIALA HOUSE COURTS, NEW DELHI**

Presided by: Sudhir Kumar Sirohi, DHJS

SC No. 106/2021

NCB Vs. Rahimullah Sakhizada & Ors.

10.01.2024

ORDER ON CHARGE

Prosecution case in brief are that on the basis of information about the control delivery u/s 50-A of NDPS Act, Sh. Anand Kumar, IO was assigned to undertake the said control delivery operation of parcel bearing No. AWB No. 3503042185. The parcel was intact in a Card Board box wrapped/taped with DHL Tape. Card Board Box is of yellow colour and does not look to have been tampered. On the parcel copy No.3503042185 was attached in the name of Shipper as Jalil Ahmad Popal Zai New Hafiz Noori Limited, Shikapor Darwazi Chow, District 2 Kandhar, Afghanistan, phone number- 0093705233088 and receiver name as Rahimullah Rahimdad, E-11/72, Malvita Nagar, New Delhi 110017, Phone Number 00917428112428. Accordingly the said parcel was intercepted at Import Customs Examination Area, New Courier Terminal IGI Airport, New Delhi on 29.09.2020 and 380 grams of Heroin was recovered, which is commercial quantity. Thereafter with the help and assistance of DHL official a dummy parcel was prepared and NCB official along with DHL Official went to the place of Rahimullah Sakhizada for its delivery and the said parcel was duly received by him and thereafter he disclosed that the said parcel was to be handed over to Sheikh Ahmad Sherzai and thereafter Sheikh Ahmad Sherzai was approached with the

dummy parcel and Rahimullah Sakhizada, the said parcel was collected by Sheikh Ahmad Sherzai and also paid a sum of Rs. 8,000/- i.e. amount of expenses. At that very time NCB team headed by Sh. Rajeev Sahrawat intercepted both of them, which shows that the recipient of the said parcel was Sheikh Ahmad Sherzai. After the parcel was recovered from Sheikh Ahmad Sherzai preliminary inquiry was made from Sheikh Ahmad Sherzai by Sh. Rajeev Sahrawat IO. In the said inquiry it was revealed by Sheikh Ahmad Sherzai that parcel AWB No. 3503042185 was meant to be delivered to one Afghan national namely Abdullah @ Hazi Basir as directed by one Afghani person namely Popal, who had sent the parcel and he called Abdullah @ Hazi Basir for taking the parcel at gate no.1 of AIIMS Hospital, New Delhi. Thereafter Sheikh Ahmad Sherzai disclosed that the said parcel was to be handed over to Abdullah @ Hazi Basir then Sheikh Ahmad Sherzai was taken along to the place of Abdullah @ Hazi Basir and the said dummy parcel was accordingly received by Abdullah @ Hazi Basir. It was further submitted that on making inquiring from Abdullah @ Hazi Basir it was revealed that he was directed by one Afghani namely Popal who had sent the parcel to deliver the same to Afghan National namely Wali and he had to come to collect the parcel at Gate No.1 of AIIMS Hospital, New Delhi. Thereafter Abdullah @ Hazi Basir disclosed that the said parcel was to be delivered to Agha Wali Muhammad and accordingly Abdullah @ Hazi Basir delivered the said parcel to accused Agha Wali Muhammad and he collected the said parcel. Both were intercepted by NCB team and on making further query by NCB, it was revealed that Wali has come to collect the aforesaid parcel as directed by one Mr.

Popal from Afghanistan to deliver the said parcel to one person who will come and collect the same. Thereafter Agha Wali Muhammad further disclosed other names who are involved in the illegal drug business and also disclosed that the recipient of this parcel will come to collect the same.

The Hon'ble High Court of Delhi vide order dated 11.10.2023 in Bail Application No. 1174/2023 directed the trial court to conclude the arguments on charge and to pass the order as expeditiously as possible.

After the order of Hon'ble High Court of Delhi, the next date in this matter was of 22.12.2023 and on that day, Ld counsel for accused Sheikh Ahmad Sherzai conceded the charge, adjournment was sought on behalf of accused Rahimullah Sekhizada for arguments on charge and no counsel appeared on behalf of accused Abdullah @ Hazi Basir, therefore, accused persons were directed to file their written submissions by 04.01.2024 but till date, no written submission has been filed by any of the accused.

On the basis of specific information, the parcel was intercepted sent by Jalil Ahmad Popal Zai were sent from Afghanistan bearing AWB No. 3503042185 and was found containing 380gm of heroin, thereafter, the controlled delivery of said parcel was done on 30.09.2020 and the address on the parcel was of accused Rahimullah Sekhizada, the controlled delivery was accepted by accused Rahimullah Sekhizada then accused Rahimullah Sekhizada disclosed that the said parcel was to be given to accused Sheikh Ahmad Sherzai, thereafter, through whatsapp call by accused Rahimullah Sekhizada, accused Sheikh Ahmad Sherzai was called and parcel was delivered to accused

Sheikh Ahmad Sherzai near Moolchand hospital. Accused Sheikh Ahmad Sherzai thereafter delivered the controlled parcel to accused Abdullah @ Hazi Basir. The 4th person involved in the matter has already been declared CCL and his case is pending before Juvenile Justice Board. The parcel which came from Afghanistan was having heroin hidden in piston of Sonali tractor and none of accused deals in tractor or its part nor at this stage is having any tractor, therefore, there is prima facie sufficient material on record to frame charge u/s 21 (c) r/w section 29 NDPS Act and 23 (c) r/w section 29 NDPS Act against all accused persons.

List for framing of formal charge on 02.02.2024.

(Sudhir Kumar Sirohi)
ASJ/Spl. Judge, NDPS/ND
10.01.2024