

**NCB Vs. Gaurav Kumar Aggarwal & ors.**  
**Case No. SC/133/2020**

23.03.2022

Vide this order, I shall pass order on charge.

Prosecution case in brief is that on 09.01.2020 Chetan Sharma, IO received an information that one parcel bearing AWB No. D90471207 booked by Gaurav Kumar from Agra and destined to Ludhiana to Manoj Kumar which was lying at DTDC office at Samalkha Kapasehera, New Delhi and the same was suspected to contain NRX tablets. This information was reduced into writing and put to Sh. Amit Kumar Tiwary, Superintendent and the same was marked for taking necessary action to Manoj Kumar, JIO. On the same date, Sh. Manoj Kumar, JIO seized the aforesaid parcel from DTDC and recovered 50,000 tablets of Tramadol weighing about 20 kgs and the parcel contained the name of Gaurav Kumar, Agra, Phone No. 8532936461 as consignor and the name of Consignee Manoj Kumar, Campa Cola Chowk, Ludhiana. On the same date, Sh. Manoj Kumar, JIO after the seizure of aforesaid parcel secretly collected all the relevant information in respect of Gaurav Kumar of Agra and Manoj Kumar of Ludhiana and thereafter made written disclosure to Sh. Amit Kumar Tiwary, Superintendent, who directed Sh. Sachin Kumar, IO to constitute a team for further necessary actions and proceed to Ludhiana and also directed Sh. Manoj Kumar, JIO to constitute a team and proceed to Agra for necessary action.

On 10.01.2020, one team of NCB reached at DTDC office Agra and Gaurav Kumar was called in the said DTDC office through the staff of DTDC and notice u/s 67 of NDPS Act was given. He disclosed that he booked the parcel on 06.01.2020 containing 50,000 tablets of Tramadol in the name of Manoj Kumar, Campa Cola Chowk, Ludhiana with DTDC courier, which he purchased from Mohit Agrawal without bill and made the

declaration for booking the parcel that the same contained surgical items as he knew that without the prescription of a doctor and without bill Tramadol tablets cannot be sent or sold to any person and the sale and purchase of the said tablets without proper document is an offence. He took NCB team to the shop of Mohit Agrawal at Agra to identify the shop from where purchased the said tablets and Mohit Kumar, who sold the recovered tramadol tablets to him and also disclosed his mobile No. 9634734182. NCB team along with Gaurav Kumar went to the shop of Mohit Kumar and after discussion and disclosure made by them, NCB team went to the godown of accused Pramod Jaipuria alias Davinder Khandelwal and from the said godown on the identification of Mohit Kumar and Gaurav Kumar recovered tablets/capsules of NRX weighing 328.82 kgs, 1400 injections of Penzin (corex) i.e. 1.4 Liter and 80 corex syrup bottles of 100 ml i.e. 8 Liters syrup was recovered.

On 10.01.2020, Sh. Sachin Kumar, IO reached at Ludhiana DTDC office and shared his information with Sh. Aman Marwaha, Manager, DTDC Ludhiana and started waiting for coming of Manoj Kumar. Manoj Kumar came at DTDC office and made enquiry about his parcel and he was intercepted there and informed that he was a wholesaler of medicines and he used to purchase and sale medicines in wholesale and informed that he ordered the purchase of 50,000 tablets of Tramadol from Gaurav Kumar and came to collect the said parcel and informed that the relevant documents were at his shop M/s Tradwell Healthcare and accordingly NCB team accompanied with him along with local police at his shop. Manoj Kumar had shown license in form 21B and 20B but he could not produce any document in relation of seizure of 50,000 Tramadol tablets at DTDC Samalkha, Delhi which was purchased by him from Gaurav Aggarwal. On the search of his shop found 99 packets i.e. 9900 tablets of Coclam plus which contained

Clonazepam. On demand to show relevant documents for the sale and purchase of aforesaid drugs for verification it was found that 86 packets i.e. 8,600 tablets of Coclam plus was short in his stock register and he informed that the same had been sold without bills.

CRCL Report dated 27.04.2020 confirms the seizure made at Kapasehra was found positive test for Tramadol Hydrochloride, report dated 03.03.2020 confirms the seizure made at Agra was found positive test for Tramadol Hydrochloride for samples A1 to D1, G1, J1 to N1 and P1, for samples E1 and S1 positive for Alprazolam, for samples F1 and H1 positive Nitrazepam, for sample R1 found positive for Diazepam, for sample T1 positive for clonazepam, for samples U1 to Y1 found positive for Codeine phosphate and recovery affected at Ludhiana tested positive for Clonazepam. All the aforesaid recoveries were prohibited drugs scheduled in NDPS Act.

All the accused persons were interconnected by their mobile phones which is evident from CDRs of their mobile Phone numbers and they were also found connected amongst them on the basis of mirror images and extracted mobile data of accused Gaurav Aggarwal, Mohit Aggarwal and Manoj Kumar. All the accused persons have admitted their complicity for the commission of offence and there are statements of other persons as well recorded in this case which shows that all the accused persons indulged in criminal conspiracy for the commission of the offence of this case and were indulged in illicit trafficking of contrabands without proper documentation and authorization and in violation of condition of licence.

Ld. Counsel for accused Gaurav Aggarwal submitted that the accused has been falsely implicated in this case and the prosecution has no case to establish any act done by him and no recovery is made from him or from his instance in this case and hence, he is liable to be discharged.

Ld. Counsel for accused Mohit Aggarwal submitted that no recovery is made from him or at his instance and the Hon'ble High Court of Delhi has granted him bail while considering the facts of this case, therefore, no offence has been committed by him. Written submissions are also filed.

Ld. Counsel for accused Manoj Kumar had stated that there is no connectivity amongst the accused person and accused was having valid licence to deal with such type of medicines and NCB has not filed any samples report to show any offence was committed by the accused. It was also alleged that the tablets which were recovered from his shop were covered under the drugs and cosmetics Act and it was a pharmaceutical preparation and one of the constituents of the tablet was paracetamol which is not a psychotropic substance and on the basis of percentage of clonazepam, the alleged shortage of tablets falls within the small category.

Ld. Counsel for the accused Pramod Jaipuria submitted that false and frivolous case has been made and no recovery is made from him.

Ld. SPP submits that all the accused persons were actively involved in the commission of offence and there is established connectivity between them as per CDR and mobile images and extracted data. 50,000 tramadol tablets weighing 20 kg were booked the parcel by accused Gaurav Aggarwal after purchasing the same illegally and unauthorizedly without bill from accused Mohit Aggarwal and the same was sent to accused Manoj Kumar while giving false declaration about the contents of the parcel. The godown of the accused Pramod Jaipuria @ Devender Khandelwal was raided on the identification of accused Gaurav Aggarwal and Mohit Aggarwal. Accused Pramod Jaipuria has also not provided any legal document of the purchase of various NRx tablets/capsules, injections and syrups which were recovered from his godown and the recovered 50,000 tramadol tablets were also purchased by Mohit Aggarwal from Pramod

Jaipuria illegally without bill as per his statement. The list of recovery of contraband with weight as under:

<b>RECOVERY AT AGRA FROM GODOWN OF ACCUSED PRAMOD JAIPURIA ON IDENTIFICATION BY ACCUSED GAURAV AGGARWAL AND ACCUSED MOHIT AGGARWAL</b>			
<b>S.No.</b>	<b>Particulars of Contraband</b>	<b>Quantity along with Mark</b>	<b>Total weight</b>
1.	Tramadol Hydrochloride Tablets/ capsules	Mark A- 15,840 Mark B- 14,400 Mark C- 25000 Mark D- 14,400 Mark G- 10,500 Mark J- 68,100 Mark K- 17,200 Mark L- 22,800 Mark M- 32,000 Mark N- 8000 Mark P- 9,200	8.910 Kg 8.100 Kg 10 Kg 8.100 Kg 8.400 Kg 20.430 Kg 10.320 Kg 13.680 Kg 12.800 Kg 5.200 Kg 5.520 kg  <b>Total-111.460 KG</b>
2.	Alprazolam tablets	Mark E- 64,800 Mark S-700	12.960 Kg 140 grams  <b>Total-13.100 KG</b>
3.	Nitrazepam tablets	Mark F- 108000 Mark H- 252000	61.200 Kg 142.800 Kg  <b>Total-204 KG</b>
4.	Diazepam tablets	Mark R- 600	120 grams
5.	Clonazepam tablets	Mark T- 1400	140 grams
6.	Codeine phosphate Bottles	Mark U- 14 bottles of 100 Ml Corex Mark X- 43 bottles of 100 Ml Corex Mark Y- 23 bottles of 100 Ml	1.40 Liters 4.3 Liters 2.3 Liters  <b>Total – 8 Liters</b>

		Corex	
	<b>Total</b>	<b>6,64,940 Tablets &amp; Capsules + 80 bottles of 100 ml.</b>	<b>328.82 Kgs. + 8 liters</b>
<b>RECOVERY AT DTDC SAMALKHA DELHI</b>			
7.	Tramadol Hydrochloride Tablets	Mark A- 50,000	20 Kg
<b>RECOVERY AT LUDHIANA</b>			
8.	Clonazepam Tablets	Mark A- 8600 <b>(found short in stock register)</b>	860 grams

Ld. SPP submits that sample Mark Q1 was not tested by CRCL as the sample quantity was insufficient to carry analysis. Whereas, as per Panchanama the weight of Penzin injection (corex) was 01 ml and accordingly total weight of 1400 injections was 1.400 Liters. As per the judgment of Hira Singh passed by Hon'ble Apex court, the entire substance has to be taken when there are more than one substance and as such the submission of accused Manoj Kumar that charge cannot be framed against him has no substance.

Ld. SPP further submits that in view of the aforesaid submissions, accused Gaurav Aggarwal, Mohit Aggarwal and Pramod Jaipuria are liable to be prosecuted for the recoveries effected at DTDC, New Delhi and at Agra for possession and criminal conspiracy whereas Manoj Kumar Aggarwal is also liable to be prosecuted for the recovery effected at DTDC, New Delhi and short clonazepam tablets in his stock register maintained at his shop at Ludhiana. All the accused persons are also liable to be charged for the offence of criminal conspiracy of recovered various contrabands and accused Manoj Kumar is also liable for the short of 8600 tables of Coclam Plus (Conazepam) in his stock register separately. Offences punishable in this case are under section 22(b) and 22(c) and section 29 of NDPS Act. Thus accused Gaurav Aggarwal, Mohit Aggarwal,

Manoj Kumar and Pramod Jaipuria are liable for prosecution for the recovery of 50,000 tablets of tramadol weighing 20 kg u/s 22(c) and 29 NDPS Act. In addition, accused Manoj Kumar Aggarwal is liable for prosecution for short of clonazepam tables of 8600 weighing 860 gm and thus liable for the additional prosecution u/s 22(c) NDPS Act and Pramod Jaipuria @ Devender Khandelwal for prosecution of 111.460 kg of tramadol hydrochloride, 13.100 kg of alprazolam tablets, 204 kg of nitrazepam tables, 120 gm of diazepam tablets, 140 gm of clonazepam tablets and 8 liters of codeine Phosphate and liable to be prosecuted u/s 22(b), 22(c) of NDPS Act alongwith section 29 NDPS Act for criminal conspiracy.

Heard. Record perused.

It is settled law that at the stage of framing of charge, the court has not to see the probative value of material on record however only has to see whether the prima facie case is made out by the prosecution and there is sufficient material to proceed for the trial. The recoveries of various psychotropic medicines and syrup in present case from the godown of accused Pramod Jaipuria on the identification of accused Gaurav Aggarwal and Mohit Aggarwal from Agra, the other recovery was effected from the parcel sent by accused Gaurav Aggarwal to Manoj Kumar and the same was from Agra to Ludhiana which was intercepted at DTDC Samalkha, New Delhi and another recovery in the nature found short of 8600 tablets of coclam plus i.e 860 gm from the stock register of accused Manoj Kumar. Therefore, in this case there is a recovery of 111.460 kg of tramadol hydrochloride, 13.100 kg of alprazolam tablets, 204 kg of nitrazepam tables, 120 gm of diazepam tablets, 140 gm of clonazepam tablets and 8 liters of codeine Phosphate, from the godown of accused Pramod Jaipuria at the instance of accused Gaurav Aggarwal and Mohit Aggarwal. There is a recovery of 50,000 tramadol tablets from the parcel sent by accused Gaurav Aggarwal to Manoj Kumar purchased through Mohit Aggarwal who

purchased it from Pramod Jaipuria, and at the time of raid, 8600 clonazepam tablets weighed around 860 gm found short in the stock register of accused Manoj Kumar.

There is connectivity amongst the accused persons which is apparent from call details and images and extracted data of mobile phones. Accused Gaurav was not having any licence to deal with NRx tablets (Tramadol) and as such purchasing and selling of such tablets from Mohit Agarwal and sending the same to Manoj Agarwal violates the provision of NDPS Act and likewise Mohit had sold 50,000 Tramadol tablets to accused Gaurav Agarwal without bill and purchased the same from Pramod Jaipuria without bills without any licence to deal with such tablets also depicts the violation of NDPS Act and accused Gaurav Agarwal and Mohit Agarwal had identified the godown of Pramod Jaipuria, and on their identification huge recovery from the godown of Pramod Jaipuria was made in their presence, and Pramod Jaipuria has not able to show that he was authorized to hold and purchase/sell the same NRX tablets, injections and syrup thereby he had violated the provisions of section 8(c) of NDPS Act. Manoj Kumar has purchased 50,000 Tramadol tablets from accused Gaurav Kumar Aggarwal, who was having no licence to deal with the same therefore, accused Manoj Agarwal has also committed an offence for the purchase of such tablets from unauthorized persons besides he was also liable for the prosecution for having no proper record to justify the sale of 8,600 tablets Coclam Plus tablets makes him liable for the same in addition to the offence of illegally purchasing of tablets of Tramadol and criminal conspiracy for the commission of the offence. CRCL reports for all the recoveries made in this case are on record, therefore, there is no substance in the submission of accused Manoj Kumar to say that there was no CRCL Report in the file. The issue of percentage has been settled by Hon'ble Supreme Court in Hira Singh judgment thus total weight has been considered for commission of

offence. The submissions made by the accused persons are in fact their defence which can only be looked into at the stage of trial.

In view of above discussion, all the accused persons are liable to be tried for the recovery of 20 Kgs of Tramadol tablets which was recovered from DTDC, Delhi, recovery of 111.460 kg of tramadol hydrochloride, 13.100 kg of alprazolam tablets, 204 kg of nitrazepam tables, 120 gm of diazepam tablets, 140 gm of clonazepam tablets and 8 liters of codeine Phosphate seized from godown of accused Pramod Jaipuria at Agra and accused Manoj Kumar is also liable to be prosecuted for violation of selling 8600 grams of Clonazepam illegally and unauthorizedly as the same was found short in the stock register.

From the material on record, there is sufficient evidence to proceed for trial against accused Gaurav Aggarwal, Manoj Kumar, Mohit Aggarwal and Pramod Jaipuria for the offence u/s 22(c) and 29 NDPS Act for recovery at DTDC, Samalkha, in addition thereto, accused Pramod Jaipuria is also liable to be prosecuted u/s 22(b), 22(c) NDPS Act for recovery effected his godown at Agra. Accused Manoj Kumar is liable to be prosecuted additionally u/s 22(c) NDPS Act for short stock found in his register for clonazepam (coclam plus) tablets. Accordingly, charges be framed against accused persons.

**(Ajay Kumar Jain)**  
**ASJ/Spl. Judge, NDPS/N. Delhi**  
**23.03.2022**

**SC No. 133/2020**  
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23.03.2022

Present: Sh. Rajesh Manchanda, Ld. SPP for NCB.  
Accused Mohit Kumar Aggarwal present on bail.  
Accused Pramod Jaipuriya, Gaurav Kumar Aggarwal produced from JC.  
Accused Manoj Kumar present on interim bail.  
Sh Y K Saxena, Ld. counsel for accused Pramod Jaipuriya.  
Ms. Komal, counsel for accused Manoj Kumar.  
Sh S S Das, Ld. counsel for accused Gaurav Kumar Aggarwal.  
Sh S P Singh Rathore, Ld. counsel for accused Mohit Kumar Aggarwal.

Today the matter is listed for orders on charge. Vide separate order, order on charge passed.

Put up the matter for framing of charges for 31.03.2022.

Today an application for extension of interim bail of accused Manoj Kumar is also listed. Vide separate order, the said application stands dismissed. Accused Manoj Kumar is taken into custody and sent to Tihar Jail to be produced on date already fixed i.e. 31.03.2022.

**(Ajay Kumar Jain)**  
**ASJ/Spl. Judge, NDPS/N. Delhi**  
**23.03.2022**

At this stage, Ld. Counsel for accused Manoj Kumar filed an application for supplying BP medicines (Olmasartan 20 mg, 4 tablets), wearing clothes and one pair of hawai chappal in two bags and the spectacles and hearing aid used by the accused. Ld. Counsel submits that accused has come from Ludhiana therefore, there is nobody to deliver these