

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

Presided by: Sudhir Kumar Sirohi, DHJS

SC No. 235/2022

FIR No. 604/2021

PS Vasant Kunj (S)

State Vs. Ranjit Raina & Ors.

13.08.2024

Present: Mr. Ravindra Kumar, Ld. Addl. PP for State.

Ms. Seema Mishra, Ld. counsel for accused Ranjeet Raina (through VC).

Accused Sanjay Negi and Gulshan on bail in person.

Accused Ranjeet Raina not produced from JC due to Independence Day arrangement.

IO Insp. Jasbir Singh in person.

Accused Ranjeet Raina from JC.

Brief facts of the case on the basis of secret information on 01.12.2021, the accused Gulshan and Ranjeet Raina were apprehended with the vehicle no. HR78C 0917, the accused Gulshan was driver of vehicle and from possession of accused Ranjeet Raina there is recovery of 9.577kg of charas, from vehicle of the accused Ranjeet Raina one currency counting machine and electronic weighing machine were also recovered. Accused Ranjeet Raina used to share 10% of profit in narcotic business to co-accused Gulshan. Accused Sanjay Negi was apprehended on the disclosure of accused Ranjeet Raina and he supplied contra-band to accused Ranjeet Raina.

Ld. Addl. PP for State argued that there is recovery of 9.577 kg of charas from possession of accused Ranjeet Raina,

vehicle belongs to accused Ranjeet Raina, accused Gulshan was present with the accused Ranjeet Raina at the time of recovery and he was driver of vehicle of accused Ranjeet Raina. The location of accused Gulshan is with Ranjeet Raina from 23.11.2021 to 26.11.2021 at Himachal and Punjab, there is recovery of weighing machine from the vehicle as well as currency counting machine which was driven by accused Gulshan, the contra-band in question was supplied by accused Sanjay Negi in Himachal Pradesh on 25.11.2021 where location of accused Sanjay Negi, Ranjeet Raina and Gulshan all were found of same place, therefore, the charge u/s 20 (b) (ii) (C) r/w Section 29 and Section 25 NDPS Act.

Ld. counsel for accused Ranjeet Raina has argued that the Section 42 NDPS Act has not been complied in this matter and Section 25 NDPS Act is not applicable, therefore, accused may be discharged.

Ld. counsel for accused Gulshan on the another hand argued Gulshan was not having any knowledge of the contra-band and he has only been named on the disclosure of co-accused persons and his own disclosure, the statement regarding 10% of sharing profit is also of co-accused Ranjeet Raina therefore, same can not be read against the accused and in the absence of knowledge, accused can not be charged u/s 20/25/29 NDPS Act, therefore, prays for discharge of accused.

Ld. counsel for Gulshan relied upon judgments/orders titled as:

1. *Surender Kumar Khanna Vs. Intelligence Officer, Directorate of Revenue Intelligence Crl. Appl. No. 949/2018 dated 31.07.2018 decided by Hon'ble Supreme Court of India*

2. *Kishan Singh vs. State of Rajasthan 1995 SCC OnLine Raj 131*
3. *Abdul Mohammed Shaik Vs. UOI & Anr. CRL. B.Appel. No. 102/2020 decided by Hon'ble High Court of Judicature at Bombay*
4. *Md. Irshad Vs. Sate of NCT of Delhi, Bail Appl No. 994/2022 decided by Hon'ble High Court of Delhi*
5. *Gulshan Kumar Vs. State of NCT of Delhi Bail Appl No. 2822/2022 decided by Hon'ble High Court of Delhi on 28.11.2022*
6. *Ram Singh Vs. Central Bureau of Narcotics (2011) 11 SCC 347 decided by Hon'ble Supreme Court of India*
7. *UOI vs. Prafulla Kumar Samal (1979) 3SCC 4*

Ld. Counsel for accused Sanjay Negi argued that there is no recovery from accused Sanjay and accused was apprehended on the disclosure statement of accused Ranjeet Raina, co accused Ranjeet Raina disclosed that accused Sanjay Negi is the supplier of contraband but the disclosure statement of co-accused is not a ground to frame the charge against the accused Sanjay Negi in the absence of recovery therefore, prays for discharge of accused.

Submission of all the parties heard.

Written submissions/judgments considered.

From the possession of accused Ranjeet Raina, there is recovery of 9.577kg of charas. In so far as compliance of Section 42 NDPS Act is concerned, the report u/s 173 CrPC reflects that the investigating officer in present case has recorded his reasons of belief on the day of arrest itself i.e. on 01.12.2021 and has also intimated his superior officers i.e. concerned SHO as

well as concerned ACP. The aforesaid information has duly been recorded vide diary no. 3280 in the PS Vasant Kunj (S), New Delhi on 01.12.2021. Further, the same information was received by the office of ACP vide diary no. 5402 on 01.12.2021. At this stage, in the absence of any controverting material, this court is unable to cast aspersions on the truthfulness of the afore-referred information. It would be pertinent to refer to the law applicable to section 42 NDPS Act as laid down by Hon'ble Supreme Court of India in case titled as *Karnail Singh Vs Hansa (2009) 8 SCC 539*, which has also been discussed and followed by Hon'ble Supreme Court of India and finds mention in para 13 of the judgment of *Boota Singh & Ors. Vs State of Haryana, 2021 SCC Online SC 324*. The aforesaid relevant passage is reproduced herein below:-

'42. But if the information was received when the police officer was in the police station with sufficient time to take action, and if the police officer fails to record in writing the information received, or fails to send a copy thereof, to the official superior, then it will be a suspicious circumstance being a clear violation of section 42 of the Act. Similarly, where the police officer does not record the information at all, and does not inform the official superior at all, then also it will be a clear compliance of section 42 of the Act. Whether there is adequate or substantial compliance with section 42 or not is a question of fact to be decided in each case. The above position got strengthened with the amendment of section 42 by Act 9 of 2001.'

In view of the above, no conclusions can be drawn w.r.t. insufficiency of the compliance u/s 42 of the Act at this stage and same would be subject matter of trial, being a question of fact.

The accused Gulshan was present with the accused Ranjeet Raina at the time of recovery and also at the time of

receiving of contra-band from accused Sanjay Negi on 25.11.2021. The location of accused Sanjay Negi, accused Gulshan and Ranjeet Raina were found same at the time of receiving of contra-band. From the vehicle bearing no. HR78C 0917 there is recovery of currency counting machine as well as weighing machine, therefore, at this stage, there is prima facie sufficient material on record to impute the knowledge contra-band on the accused Gulshan. Accused Sanjay Negi supplied contra-band in this matter, there is CDR connectivity of accused Sanjay Negi with co-accused Ranjeet Raina even there is statement of one Mr. Karan Malhotra who stated that the accused Ranjeet Raina obtains the contra-band from Sanjay in Kullu, Himachal, the location of accused Sanjay Negi, accused Ranjeet Raina and Gulshan are same on 25.11.2021 at the time of receiving of contra-band. The vehicle in question belongs to accused Ranjeet Raina and the FSL result is positive for cocaine, therefore, there is prima facie material on record to frame charge against accused Ranjeet Raina u/s 20 (b) (ii) (C), Section 25 NDPS Act and Section 20 (b) (ii) (C) r/w Section 29 NDPS Act accused Ranjeet Raina, Gulshan and Sanjay Negi.

List for framing of formal charge on **04.09.2024**.

Issue production warrants for accused Ranjeet Raina for next date.

(Sudhir Kumar Sirohi)
ASJ/Spl. Judge, NDPS/N. Delhi
13.08.2024