IN THE COURT OF ATUL AHLAWAT
ADDL. SESSIONS JUDGE, NDPS ACT (SPECIAL JUDGE)
NEW DELHI DISTRICT, PATIALA HOUSE COURTS,
NEW DELHI

SC No. 22/2025
Crime No. VIII/26/DZU/2024
NCB Vs. AMAR THAKUR & ORS.

20.12.2025

ORDER ON CHARGE

1. Vide the present order, I shall decide the issue of framing of charges/discharge of the accused persons for committing the offences, alleged by the IO/complainant in the complaint filed before this Court.

2. Shorn of unnecessary details, the brief case of the prosecution is that on 23.07.2024, a secret information was received by the NCB, DZU and acting on the same, one parcel bearing AWB No. D02350865 suspected to be containing the contraband lying at DTDC Express Pvt. Ltd., Samalkha, New Delhi was intercepted and it led to seizure of 7,97,400 tablets of Alprazolam.

3. The parcel was booked by one 'Berkeley Agencies, Dehradun, Uttrakhand' and it was destined to one 'Ajay Pandey', having his address at Mahipalpur, New Delhi. The mobile numbers of the sender and receiver were duly mentioned on the parcel as 7428560570 and 9967399895, respectively.

4. During investigation, the address of the receiver of the parcel was verified and it was found that no such address existed.

It was also revealed during the investigation that the receiver of the parcel was not present in Delhi and he wanted to take the delivery through the porter vehicle through Anjani Courier, Mahipalpur, New Delhi and thereafter, to some other place in Delhi NCR Area.

5. It was further revealed during the investigation that the porter for taking the delivery was booked on-line and porter owner namely Mr. Rakesh Kumar had visited the DTDC Office for pick up of the said parcel. After inquiring the DTDC Staff and the Staff of Anjani Courier, it was revealed that accused Amar Thakur, who was present in Mumbai was the intended person, who was managing the delivery of the parcel in question. On the basis of the technical analysis of the number of the receiver mentioned on the parcel i.e. 9967399895 and the other mobile no. i.e. 9004286391, which was used by accused Amar Thakur to contact the concerned person at Anjani Courier, his location was traced in Mumbai. Thereafter, accused Amar Thakur was apprehended on 27.07.2024.

6. During further investigation conducted regarding the senders of the seized drug parcel i.e. Berkeley Agencies, it was revealed that the said firm was being run by accused Paras @ Bharat and on the directions of accused Manish Himmatbhai Viradia and Nayan Rasikbhai Gadhesaria, accused Paras @ Bharat was generating fake purchase orders on the letter head of one 'Viva Sales' and same were used to send the same to the firm of accused Manish Himmatbhai Viradia namely 'Varni Medical Agency', Surat. The firm 'Viva Sales' was a fake firm which was got registered by accused Paras @ Bharat in the name of his associate Shahil Kumar, who was assisting him in the said illegal business. The mobile data and the WhatsApp chats recovered during the investigation suggested the involvement of the accused persons and that they were part of the syndicate.

7. It was revealed during the investigation that accused Paras @ Bharat got the agency 'M/s Viva Sales' registered in the name of his employee/associate co-accused Shahil Kumar and he also got the said co-accused to obtain a SIM Card, which was linked with the bank account of the said firm. The accused Paras @ Bharat would generate fake purchase orders on the letter head of said M/s Viva Sales and he would send the same to co-accused Manish Himmatbhai for booking the said NRx Tablets. After receiving the parcels, he would get it re-packed and send the same to the addresses given to him by co-accused Nayant Rasikbhai by booking it through his other agency namely 'Berkeley Agencies'. The accused Paras @ Bharat would use the bank account in the name of his employee Shahil Kumar to transfer the money in the account of the manufacturer to veil the transactions as genuine. The co-accused Manish Himmatbhai and Nayant Rasikbhai were running a similar syndicate in Mumbai, wherein the contraband was trafficked and another case bearing Crime Number VIII/6/MZU/2024 is registered against them at Mumbai Zonal Unit of the NCB.

8. During the further investigation, from the mobile phone which was recovered from the possession of the accused Paras @ Bharat, it was found containing the incriminating material and it led to further recovery of huge quantity of the contraband (14400 and 12960 respectively), after the courier receipts of the two parcels booked from Dehradun on 29.07.2024 and 30.07.2024 from 'Berkeley Agencies' were recovered, since the said parcels were still in-transit.

9. The investigation revealed a well organized syndicate involved in procurement, booking, transport and distribution of psychotropic substances/NDPS medicines, which was primarily handled through couriers. The payments were exchanged through *hawala*/*angadiya* channels and communications were limited primarily to WhatsApp chats. Total of 05 accused persons were arrested at different stages of the investigation. Technical analysis and human intelligence had brought forth the involvement of the syndicate operating from different locations such as Mumbai, Dehradun, Surat, Rohtak and New Delhi.

10. It is submitted by the Ld. Counsel for accused Paras @ Bharat that there is no recovery of contraband effected from the possession of the accused Paras @ Bharat and no recovery was effected in pursuance of his disclosure. The name of the accused Paras @ Bharat was not mentioned on the parcel as either the receiver or the sender. The accused Paras @ Bharat has no connection with the sender namely 'Berkeley Agencies'. His alleged involvement came in the disclosure statement of one Riya Rai, who was working with the said 'Berkeley Agencies' and she has falsely implicated the present accused Paras @ Bharat as the person responsible for sending the parcel in question. The owner of the said 'Berkeley Agencies' was found out to be one Kamal

Taneja and for reasons best known to NCB, no investigation was conducted regarding his involvement and the said person was never examined by the NCB Officials. The so called independent witness Riya Rai had falsely implicated the accused Paras @ Bharat to save herself and her employer.

11. It is further submitted by the Ld. Counsel for accused Paras @ Bharat that the prosecution has not brought on record a single document to show any financial transactions between the accused Paras @ Bharat and the co-accused persons. Except for the disclosure statements of the co-accused persons, there is nothing on record to establish his complicity in the present case. The accused Paras @ Bharat is neither linked with the firm 'M/s Viva Sales', which had allegedly procured the contraband from the manufacturer and nor is he linked with the alleged shipper 'Berkeley Agencies'. The mobile number which is linked with the bank account of 'M/s Viva Sales' is in the name of co-accused Sahil Kumar and not in the name of the accused Paras @ Bharat. The mobile number which is linked with the bank account of 'Berkeley Agencies' is similarly linked with its owner Kamal Taneja and not with the mobile number of the accused Paras @ Bharat.

12. It is further submitted by the Ld. Counsel for accused Paras @ Bharat that there is no material placed on record by the NCB to establish the link between the statement of the independent witness Riya Rai and the apprehension of the accused Paras @ Bharat from Rohtak, Haryana. There is nothing on record as to how only on the basis of the mobile number disclosed by the said person, the NCB team landed from Dehradun to Rohtak and reached one 'Balaji Communications' shop run by one Jitender Singh. There is nothing on record as to how at the behest of NCB Officials, the said Jitender Singh called the accused Paras @ Bharat to his shop, where the accused Paras @ Bharat was ultimately apprehended from.

13. It is further submitted by the Ld. Counsel for accused Paras @ Bharat that the NCB has shown the alleged recovery of six mobile phones from the possession of the accused Paras @ Bharat and two of the said phones were having no SIM cards; one phone was having a SIM Card, which was in the name of his friend Tarun; one phone was having the SIM Card registered in the name of his father Amrit Kapoor; and the last phone was having the SIM Card registered in the name of the accused Paras @ Bharat. The accused Paras @ Bharat was having the five phones with him, however the phone having make Oppo F19 Pro with the SIM Card of 8826130278 was not with the accused Paras @ Bharat and the same was planted upon him by the NCB Officials. The SIM Card of the said phone was in the name of co-accused Sahil Kumar. The seizure memo of the said phones dated 10.08.2024, does not inspire any confidence, since the same is not bearing the signature of any witness and there is no mention of the place from where the said seizure was allegedly effected from. There is no photography or videography of the said seizure and a shadow of doubt is created upon the entire seizure proceedings.

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14. It is further submitted by the Ld. Counsel for accused Paras @ Bharat that as per the case of NCB from the afore-mentioned mobile phone make Oppo F19 Pro with the SIM Card of 8826130278, certain photographs of the the courier receipts were recovered and it led to further seizure of two parcels which were still in transit and the said parcels were found containing the contraband. Once the seizure of the mobile phone is rendered doubtful, therefore even the subsequent alleged recoveries based upon the incriminating material recovered from the said phone cannot be attributed to the accused Paras @ Bharat.

15. In support of his submissions, the Ld. Counsel for accused Paras @ Bharat has relied upon the decisions of the Hon'ble Supreme Court of India in '***Union of India v. Prafulla Kumar Samal & Anr.*'**, **AIR 1979 SC 366 and '*P. Vijayan v. State of Kerala & Anr*.'**, **Criminal Appeal No. 192/2010**, **date of decision 27.01.2010** and the decision of Hon'ble High Court of Delhi in '***Shyam Gupta & Ors. v. State***', **Neutral Citation: 2023 : DHC: 001777.**

16. It is submitted by Ld. Counsel for accused Amar Thakur that during the investigation, the address of the receiver of the parcel which was seized at the office of the DTDC Courier, was found to be incorrect. The story of the prosecution is highly unbelievable that the accused who was a resident of Mumbai and who had never visited Delhi in his life, would want to take the delivery through a porter from DTDC, Samalkha and get the delivery further scheduled at 'Anjani Courier', Mahipalpur and thereafter, to another place in Delhi NCR Area. The NCB has failed to established any connection of the accused with either the consignor or the consignee of the said parcel.

17. It is further submitted by Ld. Counsel for accused Amar Thakur that as per the case of NCB, the mobile no. 9967399895 was mentioned on the parcel in question, however, it had failed to establish any nexus between the said mobile number and the accused. The handset in which the said mobile number was used, was never recovered from the accused or at his instance. The CAF details filed along-with the complaint categorically reflects that the said number is not registered in the name of the accused and it was found registered in the name of one Arshad Mohammad, S/o Kamruddin Rain and no material whatsoever was produced by NCB to show any connection between the said subscriber and the present accused. The said number has been falsely planted upon the accused.

18. It is further submitted by Ld. Counsel for accused Amar Thakur that similarly, the accused had no connection with mobile no. 9004286391, which as per the CAF filed along-with the complaint stands registered in the name of one Abdul Syed Rajesh Mohammad Chaudhary, S/o Rashid Mohammad. Furthermore, the recovery of the said number from the present accused is highly doubtful and does not inspire any confidence, since, no independent witness was associated during the said recovery. Therefore, the mandatory compliance with Section 105 BNSS, 2023 has not been done.

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19. It is further submitted by Ld. Counsel for accused Amar Thakur that it is the case of the prosecution that in pursuance of notice issued U/s 67 of the Act, the accused voluntarily appeared before NCB, Mumbai Zonal Unit Office, yet no officer from NCB, MZU is shown as a witness to the alleged recovery of the mobile phones from the accused. Furthermore, the prosecution is relying upon the Cell Location of the mobile phones i.e. 9967399895 and 9004286391, which was traced to Mumbai. However, the complaint is bereft of any concrete place, address, tower location or cell location ID chart to show exactly where in Mumbai, the said phones were allegedly used from. Mumbai being the largest metropolitan city of the country, boasts of millions of subscribers and merely because two mobile phones were operated from such a massive city, does not translate the nexus between the accused and the said phones.

20. It is further submitted by Ld. Counsel for accused Amar Thakur that as per the case of the prosecution, the consignee's email address ajaypanday1487@gmail.com was used for communication with DTDC. However, the prosecution has not established any link, direct or indirect between the accused and the said email ID. No record of any device, log in data, IP address etc. has been produced before this Court to establish that the accused ever created, used or operated the said email ID.

21. It is further submitted by Ld. Counsel for accused Amar Thakur that as per the case of prosecution, co-accused Paras @ Bharat had unequivocally stated that the seized Alprazolam tablets were handed over to him by co-accused Nayan Rasikbhai and he had further booked the parcel from Dehradun from DTDC Courier. As per the NCB's own narrative, the sender firm was operated by accused Paras @ Bharat and he was also in-charge of 'M/s Viva Sales'. In the entire statement of the said co-accused, the name of the present accused is not mentioned. The said medicines were obtained from co-accused Manish Himmatbhai, who is owning 'Varni Medical Agency' and the connection of the present accused is not shown with purchase, handling or sale of the said batch of Alprazolam tablets or with its dispatch to DTDC Couriers.

22. It is further submitted by Ld. Counsel for accused Amar Thakur that as per the NCB, a porter named Ravinder Kumar was allegedly engaged to collect the parcel from DTDC and the said porter was contacted from mobile no. 9967399895. However, since the prosecution could not establish any nexus with the said mobile phone, therefore, it cannot be attributed that the present accused was orchestrating the delivery of the said parcel. Furthermore, the porter of 'Anjani Courier' was contacted while using mobile no. 9004286391 and the said mobile number was allegedly operating on a handset having IMEI No. 3518224511804790. However, the handset which was allegedly recovered from the applicant does not bear the said IMEI Number and it pertain totally different numbers. Even if, the story as projected by the NCB is accepted as a gospel of truth, the said call was allegedly made on 23.06.2024 i.e. exactly one month prior to the alleged seizure which took place on 23.07.2024. Therefore, no relevance or nexus with the present recovery is established. There is no voice recording or intercepted calls qua the said calls allegedly made by the accused.

23. It is further submitted by Ld. Counsel for accused Amar Thakur that the alleged recovery in the present case pertains to Tramadol capsules, however, the photographs contained in the alleged chats between the accused and co-accused Nayan Rasikbhai pertains to 'Tapentadol Hydrochloride and Carisoprodol' in tablet form. Therefore, there is no chemical, factual, or contextual nexus between the alleged WhatsApp chats and the recoveries in the present case. Furthermore, there is not even a single financial transaction between the present accused and the co-accused persons. Furthermore, there is no CDR connectivity between him and the co-accused persons. Therefore, due to lack of any foundational evidence, the theory of conspiracy as propounded by NCB is not made out.

24. It is submitted by Ld. Counsel for accused Manish Himmatbhai Viradia that the accused is a reputed businessman and proprietor of the firm 'Varni Medical Agency' and he is registered with GST and is also having a valid license under the Drugs and Cosmetics Act, 1940 for a period of five years from 19.01.2024. The license details are already filed along-with the complaint. The firm of the present accused is dealing in supply of various medicines and legalized drugs to different vendees against valid purchase orders. There is no recovery of any contraband or illegal medicines from the possession or at the instance of the present accused. The accused has already submitted the purchase orders, sale purchase bills, E-way bills and GST record along-with the valid license to the IO. Except for the disclosure statement of co-accused, there is no incriminating material on record.

25. It is further submitted by Ld. Counsel for accused Manish Himmatbhai Viradia that the alleged WhatsApp chat is only pertaining to one purchase order and its payments and the alleged *hawala* transactions relate back to January, 2024 and same cannot be relied upon to link the present accused with the alleged recoveries which took place in the month of July, 2024.

26. It is further submitted by Ld. Counsel for accused Manish Himmatbhai Viradia that the prosecution is relying upon the data extraction report of the mobile phone of the accused, in which certain chats depicts the order relating to some other medicine i.e. SAMPAX, however, the recovery in the present case is of Alprazolam and Tramadol tablets. Therefore, even the said chats are not incriminating the accused.

27. It is submitted by Ld. Counsel for accused Nayan Rasikbhai Gadhesaria that from the complaint and the documents annexed therewith, the prosecution has utterly failed to present even a semblance of a prima facie case. Even if, taken on face value, the material on record does not connect the accused to the alleged recoveries in any manner whatsoever. The projected conspiracy is nothing but an ill attempt based on unfounded presumptions on the basis of genuine and innocent business communications, unsupported by any recovery or basic foundational facts.

28. It is submitted by Ld. Counsel for accused Nayan Rasikbhai Gadhesaria that the prosecution is relying upon a false story that the present accused provided the fake address of the receiver 'Ajay Panday of Mahipalpur' to co-accused persons. It had relied upon certain mobile chats between the accused and co-accused Amar Thakur, however, in the said chats there is no mention of any recovered drugs, financial dealings, smuggling activities or illegal quantity of the banned medicines.

29. It is further submitted by Ld. Counsel for accused Nayan Rasikbhai Gadhesaria that the accused is a respected businessman, who is running a registered pharmaceutical firm by the name and style of 'Nishal Pharma', which is holding valid license to manufacture, stock, distribute and sell the psychotropic and narcotic medicine in regulated quantities. The chats relied by NCB are nothing but innocuous, business related and technical queries exchanged in the ordinary course of pharmaceutical trade. It does not contain any reference whatsoever to the seized parcels, or to Alprazolam or Tramadol in prohibited quantities, or any discussion with respect to smuggling, clandestine delivery, or fake identities or illegal payments.

30. It is submitted by Ld. Counsel for accused Nayan Rasikbhai Gadhesaria that there is no recovery effected from the present accused. Not even a single tablet or piece of packaging or courier receipt or document showing financial transactions or messages indicating instructions to ship or receiving any parcel, were recovered from the present accused. He is not identified by any courier booking staff. There is no CCTV footage showing him and no financial trails lead to him. Therefore, the charges cannot be framed on the basis of mere suspicion, howsoever, strongly worded. The Ld. Counsel placed the reliance on the decision of the Hon'ble Supreme Court of India in ***Prafulla Kumar (Supra), 'State of Karnataka v. L. Muniswamy',* (1997) 2 SCC 699** and **'*Ranjeet Singh v. State of M.P',* 2023 SCC OnLine SC 512, '*Dr. NTR Prasad v. State',* 2023 SCC OnLine SC 944, '*Devendra Gupta v. State of Rajasthan*', 2022 SCC OnLine SC 1153** and **'*Tofan Singh v. State of Tamil Nadu*', (2021) 4 SCC 1.**

31. It is submitted by Ld. Counsel for accused Shahil Kumar that although mobile number 8826130278 is registered in the name of the present accused, however, it is the case of NCB itself that the said number was used by co-accused Paras @ Bharat and even the recovery of the said number is shown from the said co-accused. Furthermore, even the account passbook, ATM of 'Viva Sales' is also shown to be recovered from co-accused Paras @ Bharat. As per the prosecution, the firm 'Viva Sales' was handled exclusively by co-accused Paras @ Bharat. The present accused was merely the employee of the said co-accused and his documents were mis-used by the co-accused to open the firm, obtain the licenses and getting the bank account opened etc. However, the present accused had no say in any dealings of the said firm. Apart from the said relation, he had no connectivity with other accused persons.

32. It is further submitted by Ld. Counsel for accused Shahil Kumar that WhatsApp chats between him and co-accused Paras

@ Bharat only pertains to genuine money transactions and it is in no way related to the contraband allegedly recovered in the present case. He was the employee of co-accused Paras @ Bharat and there is no complicity of him with the said employer, with the offence in question. The so-called independent witness namely Riya Rai was working for co-accused Paras @ Bharat and he used to transfer money to her at the behest of the said co-accused. If the financial transactions are the only criterion, then why did the NCB not make her the accused in the present case. Similarly, if the ownership or the documents pertaining to a firm were the other criteria to implicate the present accused, then why did the NCB officials let go off the proprietor of 'M/s Berkeley Agencies', namely one Kamal Kumar Taneja.

33. It is submitted by Ld. Counsel for accused Shahil Kumar that there is no recovery of any contraband from the present accused. He is not involved in the manufacture, procurement, transport or handling of the recovered contrabands. The only incriminating material against him is the statement of co-accused and his own statement U/s 67 of the Act, which has no evidentiary value. The Ld. Counsel has placed reliance on the decision of Hon'ble Supreme Court of India in **'*Tofan Singh v. State of Tamil Nadu*', (2021) 4 SCC 1**.

34. The accused persons namely Amar Thakur, Nayan Rasikbhai and Manish Himmatbhai had also filed separate applications seeking discharge in the present case. The arguments on all the applications were heard together.

35. As far as the law relating to framing of charges, this Court deems it fit to reproduce the decision of the Hon'ble Supreme Court of India in ***"Dilawar Balu Kurane Vs. State of Maharashtra"*** (2002) 2 SCC 135:-

> *"11. It is apparent that the learned Special Judge proceeded to frame charge qua the petitioner on the basis of the disclosure statement of co-accused Jalil Khan and the CDR, which reflected that there were 2 voice calls between Jalil Khan and the petitioner. A perusal of the chargesheet reflects that reliance on the CDR was placed in the backdrop of the disclosure statement of co-accused Jalil Khan, which is inadmissible in nature.*
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> *12. The Hon'ble Supreme Court in Dilawar Balu Kurane v. State of Maharashtra[1] has observed that while framing charges, the Judge has the power to ascertain whether the materials on record disclose 'grave suspicion' against the accused. It has been held as under:-*
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> *"12. Now the next question is whether a prima facie case has been made out against the appellant. In exercising powers under Section 227 of the Code of Criminal Procedure, the settled position of law is that the Judge while considering the question of framing the charges under the said section has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a prima facie case against the accused has been made out; where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained the court will be fully justified in framing a charge and proceeding with the trial; by and large if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully justified to discharge the accused, and in*

exercising jurisdiction under Section 227 of the Code of Criminal Procedure, the Judge cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court but should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial [See Union of India versus Prafulla Kumar Samal& Another (1979 3 SCC 5)]."

13. Applying the aforementioned principles to the case at hand, it is clear that the only evidence against the petitioner is the CDR which creates a suspicion but not a grave suspicion. If the CDR is considered sans the disclosure statement, there is nothing on record to link the said intercepted calls to the recovery in question. Mere CDR connectivity, without there being any conversation containing incriminating material against the petitioner, would not bring the case within the net of 'grave suspicion'. No other material has been placed on record to support to show that the petitioner was in any way involved with the contraband allegedly recovered from the three co-accused persons namely Sanjay, Mausam Ali and Chhote Khan. The disclosure statements of said co-accused persons as well as the secret information received by the police do not mention the name of the petitioner. Also, no recovery has been made from the petitioner at the time of his apprehension.

14. The Court also draws support from the decision of Coordinate Bench of this Court in Shyam Gupta & Ors. v. State wherein mere CDR connectivity between the accused persons was found not enough to bring the case under grave suspicion.

15. In view of the above, this Court is of the considered opinion that the proceedings against petitioner would be an abuse of law and thus, are liable to be set aside. Consequently, the petition is *allowed and the proceedings qua the petitioner are quashed. Pending application is disposed of as infructuous."*

36. The Court at the stage of framing of charge is to evaluate the material not only for the purpose for finding out whether the commission of the offences in question is made out and whether it would lead to conviction, however, it has to be seen for the limited purpose as to whether from the facts emerging from the records, if taken on the face value, disclosed the existence of ingredients constituting the offences in question. The Court only has to form an opinion that the accused might have committed the alleged offences, however, for the purposes of conviction, the burden has to be satisfied beyond reasonable doubt.

37. The Hon'ble Supreme Court of India in ***"Bhawna Bai Vs. Ghanshyam"*** (2020) 2 SCC 217 had held that while evaluating the material at the stage of framing of charges, strict standard of proof is not required; however only prima facie case against the accused is to be seen.

38. The Hon'ble High Court of Delhi in ***Shyam Gupta (Supra)*** had categorically held that it is settled law that if two views are possible, one of them only giving rise to suspicion and not to grave suspicion, then the Court shall discharge the accused.

39. The Hon'ble Supreme Court of India in the celebrated landmark judgment of '***Badri Rai Vs State of Bihar', AIR 1958 SC 953*** had held that the conspiracy is hatched in secrecy and executed in darkness. Therefore, naturally it is not feasible for the prosecution to connect each isolated act or statement of one accused with that of the others, unless, there is a common bond linking all of them together. The crime is completed when they agreed. The actual concert between them in itself is an overt act and punishable by the law. Conspiracy is something more than a joint action. The pre-concert/agreement is must.

40. In '***State (NCT of Delhi) Vs Navjot Sandhu @ Afsan Guru***', (2005) 11 SCC 797, it was held by Hon'ble Apex Court that the liability of co-conspirator to the individual act of other conspirators is limited to their punishment of the substantive offence of being in criminal conspiracy, punishable u/s 120B IPC, 1860.

41. The Hon'ble Apex Court in "***Mohd Khalid Vs State of West Bengal",*** (2002) 7 SCC 334 has held that in a case revolving around section 10 of Indian Evidence Act, 1872, the first condition which is almost like opening the lock of section 10 is 'reasonable grounds to believe' that the persons have conspired together. Once, that is prima facie established, anything said or done by the co-conspirator is admissible against the rest, provided that what was said and done was in reference to their common intention. The section 10 is underlined by the principle of agency.

42. As far as the involvement of accused Amar Thakur is concerned, he is alleged to have taken part in illegal trafficking of the psychotropic medicines. The mobile no. 9967399895 was mentioned on the parcel which was intercepted at DTDC Express office, which led to recovery of 7,97,400 tablets of Alprazolam. The said number was operating on mobile handset bearing IMEI No. 865084053383270. The said fact was duly confirmed from the CDRs obtained from Bharti Airtel Ltd. The other mobile no. 9004286391, which was recovered from the possession of the accused was active from the same mobile handset having the said IMEI Number between 01.01.2024 to 16.03.2024. Thereafter, the mobile no. 9967399895 was operated on the said mobile phone between 19.03.2024 to 23.07.2024. During the relevant period, the location ID Chart of both the mobile phones were shown to be same i.e. in the city of Mumbai, where the accused was residing. There is the statement of an independent witness namely Yashpal Singh, DTDC Staff, which corroborates the case of the NCB with respect to the accused being in touch with him and that it was the accused which had requested for handing over of the parcel to the delivery agent. Furthermore, the present accused had used mobile no. 9004286391, to contact one Rajesh from 'Anjani Courier' with respect to the delivery of the parcel in question. The records of the porter service also confirms the said booking was made through the said number. Therefore, the chain of communication between the accused and different courier personnel and porter agents namely Yashpal Singh, Rajesh Kumar and Rakesh Kumar discloses more than *prima facie* case to indicate his complicity with the offence in question. The statements of independent witnesses, the CDR connectivities etc. are further corroborated with the WhatsApp chats of the present accused with co-accused Nayan Rasikbhai. Therefore, the records clearly indicate that he was actively managing the courier operations with respect to the seized contraband at DTDC Express Office.

43. As far as accused Nayan Rasikbhai is concerned, there are several WhatsApp chats which were recovered during the investigation, in which the present accused is speaking with co-accused Amar Thakur. The said chats are *prima facie* suggesting that the present accused was in active co-ordination with the co-accused persons with respect to the illegal trafficking of the NDPS medicines. In addition to the CDRs, the prosecution is relying upon the statement of witnesses, the WhatsApp chats between the accused and the co-accused persons, details of on-line booking of delivery services and data retrieved from the phone of the present accused. There are WhatsApp chats between him and co-accused Paras @ Bharat, in which the address mentioned in the seized parcel was sent by him to co-accused Paras @ Bharat. There is another intriguing material, in which the present accused and co-accused are talking about one vehicle bearing registration no. DL12CS8830, belonging to NCB and the said vehicle being used by the NCB officials in the operations conducted by the said agency. Furthermore, the present accused is also conversing with co-accused Amar Thakur with respect to illegal medicines such as Tramadol Hydrochloride and its availability. Furthermore, there are WhatsApp chats between him and co-accused Paras @ Bharat, in which there are conversations relating to NDPS medicines and on 08.07.2024, he had sent the fake address of the receiver 'Ajay Panday' along-with the contact number of accused Amar Thakur to co-accused Paras @ Bharat and the said details were duly mentioned on the parcel in question. Thereafter, on 10.07.2024, there are further conversations regarding sending the stuff and on 11.07.2024, there is a conversation regarding the goods being received.

44. As far as accused Manish Himmatbhai is concerned, as per the case of NCB, he is one of the master-minds of the conspiracy of illegally trafficking the NDPS medicines/psychotropic substances. At his instance, co-accused Paras @ Bharat would generate fake purchase orders on the letter head of the sham company namely 'Viva Sales', which was created by co-accused Paras @ Bharat in connivance with co-accused Shahil Kumar. The present accused in order to evade any trail, would send the parcels containing NRx tablets to different persons/receivers by creating fake names and addresses. The address would be given by co-accused Nayan Rasikbhai and co-accused Amar Thakur would co-ordinate the entire process of delivery of the consignments. The co-accused Paras @ Bharat used to get the parcels further packed and re-booked from the other agency namely 'Berkeley Medical Agency' on the addresses given to him. Small percentage of the sale amount would be credited by accused Paras @ Bharat from the bank account of accused Shahil Kumar to the bank account of the proprietorship firm of the present accused namely 'Varni Medical Agency'.

45. There are CDR connectivities between accused Manish Himmatbhai and accused Paras @ Bharat. From the mobile phone recovered from the possession of accused Paras @ Bharat, number of WhatsApp chats between the two of them were recovered. Accused Manish Himmatbhai had deleted the

WhatsApp chats and also tried to destroy his phone. From the mobile forensic report received during the investigation, the deleted data was retrieved and there is one WhatsApp chat between accused Manish Himmatbhai and accused Paras @ Bharat on 25.01.2024, wherein, accused Manish Himmatbhai was requesting for back-dated purchase orders and there were other conversations regarding payments being done. Furthermore, there are number of WhatsApp voice calls exchanged between two of them. On 17.06.2025, accused Paras @ Bharat sent the purchase order of the medicines and said message was deleted by accused Manish Himmatbhai. Thereafter, he sent a message back to accused Paras @ Bharat stating that purchase order for sampex 320 medicines had to be sent. Thereafter, on 10.07.2024, there is other chat exchanged between the two of them with regard to placing of the purchase order for RLAM-1 medicine, quantity 1329 box and on the next day i.e. 11.07.2024, he had also sent a reminder message to accused Paras @ Bharat.

46. On 15.07.2024, between accused Manish Himmatbhai and Paras @ Bharat '*photograph of one Rs.10/- Indian Currency Note*', was exchanged. On receiving the said photograph, accused Manish Himmatbhai had replied with '*name and number*'. To the said reply, accused Paras @ Bharat sent the name of co-accused '*Shahil*' and mobile number '*9262820920*' was mentioned. The said photograph of the currency note was also shared in chats for *hawala/angidya* was used. There is statement of independent witness namely Patel Pramal Kumar Mahenderbhai with respect to *hawala/angidya* to corroborate the

ATUL AHLAWAT Digitally signed by ATUL AHLAWAT Date: 2025.12.20 14:26:35 +0530 other evidence available on record, wherein the said witness had given the details of mobile number used by accused Manish Himmatbhai and also the details of money given by him to the said accused.

47. There are similar WhatsApp conversations between accused Manish Himmatbhai and accused Paras @ Bharat on 19.07.2024 and 22.07.2024 regarding the request for sending the purchase order of Sampex Medicines 39 boxes and accused Paras @ Bharat asking for the payment to be made. To the said requisition, accused Manish Himmatbhai asked accused Paras @ Bharat to speak with accused Nayan Rasikbhai for the payment.

48. The investigation has revealed that prima facie although the firm of the accused Manish Himmatbhai is concerned, the same appears on face of it to be holding valid license under the Drugs and Cosmetics Act, 1940, however, the sales were effected from the said firm namely 'Varni Medical Agency' in violation of Condition No. 4(ii) of the said license, since the medicines/psychotropic drugs were supplied to 'M/s Viva Sales', which was found out to be unauthorized and fraudulently licensed identity. The documents such as, the certificate purportedly issued in favor of one Kamal Kumar Taneja, who was allegedly shown as pharmacist of 'M/s Viva Sales' was found out to be forged and in the official letter head was mis-used and the said Kamal Kumar Taneja was neither found employed nor known to accused Manish Himmatbhai and co-accused Paras @ Bharat. Furthermore, both 'M/s Viva Sales' and 'Berkeley Agencies' were incorporated at the instance of the present accused and co-accused Paras @ Bharat, for fabricating the paper trail of the illicit sale of the NDPS medicines. The firm of the present accused also failed to maintain statutory stock registers and *prima facie* the present accused was actively engaged in the illicit traffic of the said medicines/psychotropic substances. Instead of conducting a legitimate business, the present accused knowingly sent the psychotropic substance to co-accused Paras @ Bharat without license or invoices, merely on the basis of fabricated purchase order and no separate register was maintained for the supply of the said drugs.

49. As far as accused Paras @ Bharat is concerned, he is one of the master-mind/kingpin of the conspiracy of trafficking the NRx Tablets. As per the case of NCB, the accused Paras @ Bharat got the agency 'M/s Viva Sales' registered in the name of his employee co-accused Shahil Kumar and he also got the said co-accused to obtain a SIM Card, which was linked with the bank account of the said firm. The passbook and ATM card linked to the said account was recovered from the present accused. The mobile number which was linked with the bank account of 'M/s Viva Sales' was also recovered from his possession. The CDR connectivity between him and co-accused Shahil Kumar reflects that they were in constant touch through WhatsApp calls. On 11.07.2024, co-accused Shahil Kumar shared his bank account details to the present accused. Thereafter on 15.07.2024 and 17.07.2025, accused Shahil Kumar shared the '*photograph of one Rs.10/- Indian Currency Note*', with the present accused, which was later shared by accused Paras @ Bharat with accused Manish Himmatbhai. Furthermore, there are

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number of WhatsApp chats between him and co-accused Shahil Kumar with respect of money being deposited in the bank account.

50. As per the case of NCB, accused Paras @ Bharat would generate fake purchase orders on the letter head of said 'M/s Viva Sales' and he would send the same to co-accused Manish Himmatbhai for booking the said NRx Tablets. After receiving the parcels, he would get it re-packed and send the same to the addresses given to him by co-accused Nayant Rasikbhai by booking it through his other agency namely 'Berkeley Agencies'. The accused Paras @ Bharat would use the bank account in the name of his employee co-accused Shahil Kumar to transfer the money in the account of the manufacturer to veil the transactions as genuine. The co-accused Manish Himmatbhai and Nayan Rasikbhai were running a similar syndicate in Mumbai, wherein the contraband was trafficked and another case bearing Crime Number VIII/6/MZU/2024 is registered against them at Mumbai Zonal Unit of the NCB.

51. The mobile phone which was recovered from the possession of the accused Paras @ Bharat was found containing further incriminating material and it led to further recovery of huge quantity of the contraband (14,400 and 12,960 respectively), after the courier receipts of the two parcels booked from Dehradun on 29.07.2024 and 30.07.2024 from Berkeley Agencies were recovered, since the said parcels were still in-transit.

52. The accused Paras @ Bharat has been named by several independent witnesses such as Riya Rai, Manoj Kumar Sharma, Sachinder Singh and Jitender Kumar. It has been stated by witness Riya Rai that she was working on the directions of accused accused Paras @ Bharat and the accused was duly identified by her, while he was in departmental custody. There is the statement of Manoj Kumar, who is the booking clerk of DTDC Dehradun.

53. During the investigation, vide order dated 23.12.2024 passed by the Ld. Predecessor of this Court, the handwriting samples of accused Paras @ Bharat were taken before the Court of Ld. JMFC and same were deposited with CFSL, New Delhi and as per the CFSL report dated 28.01.2025, it was found that the reproduced questioned writing samples were compared with the specimen writing, which was attributed to accused Paras @ Bharat and certain similarities in the said questioned writing and specimen writings were observed.

54. As far as accused Shahil Kumar is concerned, the firm 'M/s Viva Sales' was registered in his name and he had obtained the mobile phone no. 8826130278 and the said number was recovered from the possession of co-accused Paras @ Bharat. There are number of CDR connectivities between him and co-accused Paras @ Bharat. He could be seen in the CCTV Footage of various banks, wherein he is depositing the cash at the behest of the co-accused person and the money deposit forms/slips were also filled up by the present accused and it bears his signatures. Number of WhatsApp chats between him and accused Paras @

Bharat have been recovered. The statement of independent witness Sachandra Singh was recorded U/s 67 of the Act, in which he had implicated the present accused and co-accused Paras @ Bharat. The statement of the said witness was also recorded U/s 183 BNSS, 2023, before the Ld. JMFC, in which he had duly disclosed that he had introduced the present accused to co-accused Paras @ Bharat and he was informed by the present accused that co-accused Paras @ Bharat had opened a firm in the name of the present accused.

55. The respective defenses raised by the accused persons can not be seen at this time and the same shall be seen at the time of trial. In addition to the recovery of the multiple parcels, in which commercial quantity of the psychotropic substances were found, there are statements of independent witnesses linking the accused Paras @ Bharat as the person who had booked the said parcels in question. Accused Paras @ Bharat got the firm 'M/s Viva Sales' registered in the name of his employee accused Shahil Kumar and on the directions of accused Manish Himmatbhai and Nayan Rasikbhai, accused Paras @ Bharat would generate fake purchase orders on the letter head of 'M/s Viva Sales' and would send the same to accused Manish Himmatbhai for booking the NRx tablets. After receiving the said parcels, accused Paras @ Bharat would get the same further packed and booked through another agency namely 'Berkeley Agencies' through Riya Rai and later on the parcel would be destined for the address given by accused Nayan Rasikbhai. The fake receiver's name and address was provided and accused Amar Thakur would then actively manage the courier operations concerning the seized contraband.

In addition to the CDR connectivity between the accused persons, there are WhatsApp chats containing incriminating material. The corroboration to the contents of the WhatsApp chat is rendered from the porter booking details received from the concerned Porter App. The voluntary statement of DTDC staff Yashpal Singh and the statement of the staff of 'Anjani Courier' namely Rajesh Kumar is further corroborating the case of NCB. Qua accused Paras @ Bharat there are statements of independent witnesses namely Riya Rai and Sachendra Singh recorded U/s 183 BNSS, 2023. The involvement of accused Shahil Kumar and his link with co-accused Paras @ Bharat is also coming in the statement of said Sachendra Singh. The case of the NCB is also corroborated by the statement of *angadiya* agent.

56. Therefore, in the considered opinion of this Court, accused persons have *prima facie* committed offences punishable u/s 29 r/w Section 22 (c) of NDPS Act, 1985, since, they had hatched the conspiracy in question for trafficking of NDPS medicines/psychotropic substances. *Prima facie* the accused persons have also committed the offence punishable U/s 8 (c) r/w Section 22 (c) r/w Section 29 of the NDPS Act, 1985 qua the recovery of the parcel containing ten carton boxes bearing AWB No. D02350865 containing 7,97,400 Alprazolam tablets (total weight 103.460 Kg), at DTDC Express Office, Samalkha, New Delhi on 23.07.2024. Furthermore, *prima facie* commission of offence punishable U/s 8 (c) r/w Section 22 (c) of the NDPS Act, 1985 qua the recovery of 27,360 capsules of NRx Spasmed, Acetaminophen, Tramadol, HCI and Dicylomine HCI capsules (total weight 17.100 Kg), at DTDC Office, New Delhi, is also made out against accused accused Paras @ Bharat.

57. Let the formal charges be framed against the accused persons separately. The separate applications filed by the accused persons seeking discharge in the present case are consequently dismissed.

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(Atul Ahlawat)
ASJ/Spl. Judge, NDPS/N. Delhi
20.12.2025