

**FIR No. 11/2019**  
**PS Spl Cell**  
**U/s 21/29/61/85 NDPS Act**  
**State Vs Mausam Ali & Ors.**

04.03.2021

Present: Sh. Ravindra Kumar, Ld. Additional PP for the State along with IO SI Surender.  
Accused Jalil Khan, Sanjay, Kaisar Khan and Mausam Ali produced from JC through VC.  
Accused Kunwar Pal on bail.  
Accused Chhote Khan absent.  
Sh Sumit Sharma, Ld. counsel for accused persons namely Jalil Khan and Kunwar Pal.  
Sh S A Khan, Ld. LAC for accused Sanjay and Ld. counsel for accused Mausam Ali.  
Sh Kamal J S Mann, Ld. counsel for accused Kaisar Khan.

Ld. Addl. PP submits that today the application for taking voice sample of accused Kaisar Khan is also listed. Ld. Addl. PP submits that vide order dated 29.09.2020 this court allowed the application of voice sample of accused persons namely Sanjay, Jalil Khan and Kunwar Pal. Ld. Addl. PP submits that the voice sample of present accused Kaisar Khan is required to match with the intercepted calls however Ld. counsel for accused Kaisar Khan submitted that his voice sample has already been taken in police custody therefore do not want to give voice sample.

Apex court in case titled *Ritesh Sinha Vs State of UP & Anr.*, *Crl. Appeal No. 2003/2012 dated 02.08.2019* categorically held that judicial Magistrate must be conceded the power to order a person to give voice sample for the purpose of investigation.

Considering the submissions of Ld. Addl. PP, the mandate of the judgment of Apex court in above case, the voice samples of accused persons are very much required for proper investigation of this case and said

evidence is also essential for ascertaining the involvement of accused in the crime. Accordingly, accused Kaisar Khan is directed to provide his voice sample despite refusal without prejudice to his pleas to be raised during proceedings before this court. The application is allowed accordingly.

Ld. Addl. PP submits that IO will move an appropriate application for production of accused Kaisar Khan after taking a date from FSL, Rohini, Delhi.

Director, FSL, Rohini, Delhi is directed to provide the shorter date so that the proceedings before this court can be expedited.

Separate statement of accused Kaisar Khan of refusal to give voice sample be sent in jail for his signatures. Jail superintendent is directed to obtain the signatures in his presence or the authorized official by duly attesting the same and return the statement before this court on or before NDOH i.e. **07.04.2021**.

Process server HC Krishan who executed the process u/s 82 CrPC against accused Chhote Khan is present. His statement regarding execution of process u/s 82 CrPC against accused is recorded separately as CW2, as per which it appears that the process u/s 82 CrPC has been validly executed against accused Chhote Khan. In view of the fact that accused Chhote Khan, despite the proclamation u/s 82 CrPC being issued against him, has not appeared before this court within the stipulated period of 30 days, accused Chhote Khan S/o Sh Aliar Khan is hereby declared a **“Proclaimed Offender”**.

List this matter for **07.04.2021**. Jail superintendent is directed to produce all accused persons physically on said date.

Copy of the order be sent to accused Kaisar Khan in jail and jail superintendent for compliance.

(Ajay Kumar Jain)  
Spl. Judge, NDPS/N. Delhi  
**04.03.2021**