

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

Presided by: Sudhir Kumar Sirohi, DHJS
SC No. 378/2018
FIR No. 64/18
PS Special Cell
State Vs. Ashish Sharma & Ors.

ORDER

The present order on charge has been passed with respect to accused Harvinder Singh @ Baljeet.

Brief facts of the case as per prosecution are that accused Harvinder Singh @ Balli was operating international drug racket from United Kingdom and he was in contact with accused Praveen Saini and accused Pawan Kumar in India, accused Pawan Kumar was doing the work of procurement of drugs while accused Praveen Saini was doing the work of sending drugs out of India with documentation. Thereafter on the information raid was conducted and various recoveries of different types of tablets effected in this matter from different accused persons, the accused persons were arrested in India thereupon, the extradition request was placed by the Govt. of India before the UK Government to which the accused consented then accused was extradited to India.

Ld. Counsel for accused argued that maximum charge which can be framed against the accused is u/s 29 NDPS Act which is itself is an offence under NDPS Act. It has further been argued by Ld. Counsel for accused that government of UK has consented for extradition of accused with respect to the Class-B drug methaqualone and as per the FSL report, the methaqualone drug allegedly recovered from accused persons is

mephedrone which is not listed in the Class-B schedule drug of UK. Ld. Counsel for accused further argued that as per doctrine of specialty embedded u/s 21 of Indian Extradition Act, the accused can not be subject to trial of any other offence except the one for which consent of extradition has been given. Ld. Counsel for accused relied upon the judgment "*Daya Singh Lahoria Vs. Union of India and Ors. 2001 SCC OnLine SC663, Abu Salem Abdul Qayyum Ansari Vs. Central Bureau of Investigation and Ors. (2013) 12 SCC 1 and Vinay Mittal Vs. Union of India and Ors. WP CRL. 562/2019 decided on 18.01.2020 by Hon'ble Delhi High Court*" with respect to doctrine of specialty. It is further argued by Ld. Counsel for accused that as the mephedrone is not listed in any Class-B Drug of UK and the UK Government only consented for methaqualone, therefore, no charge for any other drug can be framed on the accused.

Ld. Addl. PP for State on the another hand argued that the accused Harvinder Singh @ Baljeet was running an international drug racket from UK and he was in constant touch with accused Praveen Saini and Pawan Kumar regarding which voice sample of accused Harvinder Singh has matched. Ld. Addl. PP for State further argued that as per transcription of accused Harvinder Singh the accused placed order, the recovery from the co-accused Ashish Sharma and Asim Ali from IGI Airport and recovery from the house of accused Rajender is with respect to the order of the present accused namely Harvinder Singh. Ld. Addl. PP for State also argued that accused Pawan was doing the work of procurement of drugs while accused Praveen was doing the work of sending the contraband to UK through Akshay Gulia, Ashish Sharma and Asim Ali. Ld. Addl. PP for State further

argued that in the transcription of accused/applicant even the names of drugs which are to be exported to UK have been mentioned. It is also argued by Ld. Addl. PP for State that the doctrine of specialty is not applicable in this matter as the accused himself consented for his extradition on the basis of documents provided by the Govt. of India and in the order of extradition pursuant to Section 93 of Extradition Act,2003 dated 09.12.2021 by Secretary of State, nothing has been mentioned as to which Section or which drug the accused has to be prosecuted in India and it has been mentioned in the order that accused consented for his extradition, therefore, accused can be prosecuted in India for other drugs also and not only for methaqualone.

Submissions of all the parties heard. Judgment perused.

The order of extradition dated 09.12.2021 by the Secretary of State of UK Government is reiterated:

“ORDER FOR EXTRADITION PURSUANT TO SECTION 93 OF THE EXTRADITION ACT 2003

Whereas Harvinder Singh (aka Baljeet Singh and Balli) ("the Person") is accused in the jurisdiction of India, being a territory designated for the purpose of Part 2 of the Extradition Act 2003 ("the 2003 Act"), of the commission of offences;

Whereas on 11 February 2021, the Person was arrested pursuant to a request for his extradition made by India;

Whereas on 4 November 2021, before a District Judge at Westminster Magistrates' Court, the Person consented to his extradition of the 2003 Act;

And whereas the extradition of the Person to India is not prohibited by the 2003 Act;

Accordingly, under section 93 of the 2003 Act, the Secretary of State hereby orders the Person to be extradited to India.

Date
09/12/2021

Signed
Secretary of State

In the abovesaid order of extradition nothing has been mentioned that accused has been extradition with respect to any particular drug and even it is mentioned that on 04.11.2021 before a District Judge at Westminster Magistrates' Court, the accused has consented to his extradition. Therefore, there is no bar if the accused is prosecuted in this matter for other drugs also except methaqualone and the doctrine of specialty is not an hindrance for charge with respect to other drugs also.

In the present matter, following recoveries were effected from various accused:

Sr. No.	Accused persons	Name of Tablet and number	Net wett.
1	Ashish and Asim Ali	28000, VALIUM10 (Diazepam), 54000 VAL (Diazepam)	61,60,000 mg 1,40,40,000 mg
2.	-Do-	72000 ATIVAN 2mg (Lorezapam) 24,250 NT-10 (Nitrazepam) 1.0 Kgm Methaqualne (diazepam as per FSL)	50,40,000 mg 1,33,37,500 mg
3.	-Do-	84, 000 VAL	2,18,40,000mg

		(Diazepam) 900 gms Methaqualone (mephedrone as per FSL)	0.9 Kg
4.	-Do-	85,000 VAL (Diazepam)	2,21,00,000mg
5.	Praveen Saini	1.095 Kgm Methaqualone (Mephedrone as per FSL)	1.095Kg
6.	Rajender	27,500 VAL (Diazepam) 40,000 VAL (Diazepam) 60,000 ALKO-1 (Alprazolam) 80,000 ALKO-1 (Alprazolam) 95,500 ALKO-1 (Alprazolam)	71,50,000 mg 1,04,00,000 mg 1,24,80,000 1,46,40,000 1,98,64,000
7.	Pawan	1.020 Kgm Methaqualone (diazepam)	1.020 Kg
8.	Lalit	2,994 VAL (Diazepam)	7,78,440 mg

At the stage of charge only prima facie case has to be seen. Prima facie recovery from accused Ashish and Asim at IGI Airport and recovery from house of accused Rajender has been linked to present accused Harvinder Singh @ Baljeet on the basis of interception and medicines/drugs which was recovered at IGI as well as house of accused Rajender have been mentioned by accused Harvinder in the intercepted calls, voice sample of the present accused has matched with the intercepted calls, in the transcription names of drugs to be exported out of India has

emerged. There is mobile phone connectivity between accused Praveen Saini (7289809673), Pawan (7060322291 & 9999359952) and Harvinder (447405117664) accordingly, there is prima facie material on record to show that accused entered into the conspiracy of purchasing psychotropic substances of commercial quantity and for that charge u/s 22 (c) r/w 29 NDPS Act is made out against the accused Harvinder Singh @ Baljeet, there is also prima facie material on record that accused entered into the conspiracy of exporting psychotropic substance out of India and in pursuance of said conspiracy attempted to export commercial quantity of psychotropic substances out of India, therefore, the charge u/s 23 (c) r/w Section 28 r/w Section 29 NDPS Act is made of against accused Harvinder Singh @ Baljeet.

List for framing of formal charge on **31.01.2023**.

(Sudhir Kumar Sirohi)
ASJ/Spl. Judge, NDPS/N. Delhi
17.01.2023