

**Hearing through Video Conferencing by Cisco Webex**  
**Meeting App**

**IA No. 10/2021**  
**Shadaab Ansari Vs State**  
**SC No. 17/2020**

**In re:-**  
**FIR No. 854/2019**  
**PS New Usmanpur**  
**U/s 20/29 NDPS Act**

**03.07.2021**

Present: Sh. Nasir Ali, Ld. Counsel for applicant.  
Sh. Masood Ahmad, Ld. Addl. PP for the State with  
SHO, PS New Usmanpur and IO SI Ravi Poonia.

Submissions on the bail application are heard.

By way of present application, the applicant is seeking bail with the submissions that he has been falsely implicated in the present case and was arrested on 19.11.2019 and is in custody since then. It is submitted that chargesheet has already been filed in the matter. It is submitted that nothing has been recovered from the possession of the applicant and as per allegation 60 kg ganja was recovered from vehicle in which applicant was traveling with co-accused and recovery was not affected on the personal search of applicant and said vehicle was not driven by the applicant nor he was owner of that vehicle nor the same was in possession of applicant.

In the bail application, contentions about non compliance of provision of Section 50 NDPS Act, 1985 is also raised but during the course of arguments, Ld. Counsel has not pressed the same and stated that he is pressing the contention that

withdrawal of sample from the alleged contraband is not as per law and on this ground alone, the applicant deserves to be released on bail. In support of his contention, reliance is placed upon the orders in case of Ahmed Hassan Muhammed Vs The Custom, Bail Application No. 3076/2020, passed by Hon'ble High Court of Delhi on 11.02.2021.

On the other hand, bail application is opposed with the submissions that 60 kg ganja kept in 30 packets in bags in the dickey of vehicle was recovered in which applicant was sitting on passenger seat. It is submitted that samples were drawn properly after mixing the entire quantity. It is submitted that applicant may jump the bail and may involve himself in similar offence if is admitted to bail.

In the present case, two bags were found in the dickey of the vehicle which were containing 30 packets and the said packets were opened and it was found that each packet is containing brownish colour grass like substance with seeds which was found as ganja upon smell and it was also moist. The IO mixed up the material and weighed it which was found 60 kg and took 2 samples of 500 gram each from the said material.

In the case, relied upon by the applicant titled Ahmed Hassan Muhammed (supra) there were 30 cartons and each carton was further having plastic packages of same type of dry leaves suspected to be Dry Chat leaves and representative samples were drawn and for drawl of the representative sample a small quantity of substance i.e Dry Chat leaves from each of the plastic packages was taken by the inspector and it was mixed thoroughly to make the mixture homogeneous. The Hon'ble High Court relying upon earlier case titled Basanti Rai held that the fact of the present case

is that prosecution has mixed all the packets and thereafter, sent to FSL for examination, which is contrary to the procedure prescribed under the law and admitted the applicant on bail.

Considering the facts of the present case in light of observation of Hon'ble High Court of Delhi in case of Ahmed Hassan Muhammed (supra) where the samples were drawn in a manner contrary to the procedure prescribed, without opining on the merits of the case, I am of the view that the case is made out to admit the applicant on bail. As such application is allowed. Applicant Shadaab Ansari be released from custody on furnishing of bail bond in the sum of Rs. 50,000/- with one surety of the like amount. The bail bonds may be furnished before the Superintendent of jail also.

Copy of the order be provided to the parties and be also sent to the Superintendent Jail for information.

**(SUNIL CHAUDHARY)**  
**Special Judge (NDPS)/ASJ**  
**North East/ Delhi 03.07.2021**