

**IA No. 12/2022**  
**State Vs. Anuj Kumar**  
**SC No.53/2022**  
**FIR No. 760/21**  
**PS: New Usmanpur**  
**U/s: 20 (c) of NDPS Act**  
**10.04.2023**

Present: Sh. S.N.Qureshi, learned Counsel for the applicant/accused Anuj Kumar.  
Sh. Sukhbeer Singh, Ld. Addl. PP for the State.  
IO/SI Nitin.

The matter is fixed for hearing arguments on the application for grant of bail filed by this applicant/accused Anuj Kumar.

I have heard Ld. Counsels for the parties.

The matter stands passed-over till 4:00 PM for order on the application for bail.

**(PAWAN KUMAR MATTO)**  
**Addl. Sessions Judge (Special Judge NDPS)**  
**North East/KKD Courts/Delhi/10.04.2023**

At 4:40 PM

Present: None for the applicant/accused Anuj Kumar..  
Sh. Sukhbeer Singh, Ld. Addl. PP for the State.

The matter was passed-over till 4:00 PM for order on the application for grant of bail filed by the applicant/accused Anuj Kumar.

Vide my separate detailed order of even date, the said application has been **dismissed**.

**(PAWAN KUMAR MATTO)**  
**Addl. Sessions Judge (Special Judge NDPS)**  
**North East/KKD Courts/Delhi/10.04.2023**

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**10.04.2023**

**ORDER ON APPLICATION FOR GRANT OF BAIL  
FILED BY THE APPLICANT/ACCUSED ANUJ KUMAR**

1. This order of mine will dispose of an application for grant of bail filed by this applicant/accused Anuj Kumar.
2. I have heard the counsel for this applicant/accused and learned Additional Public Prosecutor for State.
3. Sh.S.N.Qureshi, Ld. counsel for applicant/accused Anuj Kumar has submitted that this applicant/accused has been falsely implicated in the present case and has further submitted that there are so many contradictions in time of receiving of secret information and in the GD No.0120-A, GD No. 0026-A and GD No. 0029-A and the replies to the notices under section 50 of the NDPS Act of all the accused are same in verbatims. He has further submitted that the case of the prosecution becomes doubtful in view of contradictions. He has further submitted that no document has been brought on record to prove that who is the owner

of the vehicle, wherein, the contraband is allegedly recovered. He has further submitted that the case of the prosecution also becomes doubtful in view of different colour of polythene mentioned in the report of Police and also in the order dated 25.10.2021 passed by Ms. Kanika Jain, Id. Reliever Judge, North-East, KKD Courts, Delhi. He has further submitted that in the seizure memo of alleged contraband, the seal of 'NK' is mentioned, whereas, in the statement of Inspector Anand Yadav, he has also deposed that seal of 'AY' was also affixed by him on the parcels and further submitted that it is nowhere mentioned in Register No.19 that the seal of 'AY' is affixed on the parcels of the contraband and prayed for grant of bail.

4. On the other hand, Shri Sukhbir Singh, learned Additional Public Prosecutor for the State has vehemently opposed the present application for bail and submitted that this applicant/accused is the owner of the vehicle and further submitted that at the time of the apprehension of this applicant/accused, he was sitting on the seat of said vehicle adjoining to the driver and from the dickey of the said vehicle, 31 Kg and 84 grams ganja was recovered in two sacks and report of FSL made it clear that it was ganja and submitted that since charge under section 20 (c) of the NDPS Act has been framed against this applicant/accused and further submitted that since the case is relating to commercial quantity, thus, embargo contained U/sec. 37 of the NDPS Act is applicable to the case in

hand and prayed for dismissal of this application for grant of bail.

5. I have given thoughtful consideration to the submissions made by counsel for this applicant/accused and Ld. Additional Public Prosecutor for State and perused the record.

6. The perusal of the record reveals that in the case in hand, charge under section 20 (c) of the NDPS Act has been framed against this applicant/accused as 31 killo and 84 grams ganja is alleged to have been recovered from the vehicle bearing registration No. UP-80 CC-7027, which is allegedly owned by this applicant/accused and at the time of the recovery of the ganja form the dickey of the vehicle, this applicant/accused is alleged to have sit on the seat adjoining to the seat of driver of the vehicle. Photocopy of register certificate (RC) of said vehicle reveals that this applicant/accused is the registered owner of the said vehicle and the quantity of the contraband alleged to have been recovered is commercial in nature,so, the embargo of Sec. 37 of NDPS Act is applicable to the case in hand.

7. Since the Hon'ble Supreme Court of India in "*Union of India v. Ram Samujh and Anr. Appeal (Crl.)866 of 1999*" while dealing with bail matter relating to the commercial quantity of contraband was pleased to observe as under:-

*To check the menace of dangerous drugs flooding the market, the Parliament has provided that the person accused of offences under the NDPS Act should not be released on bail during trial unless mandatory conditions provided in Section 37, namely,*

*(i) there are reasonable grounds for believing that accused is not guilty of such offence; and*

*(2) that he is not likely to commit while on.*

*are satisfied. The High Court has not given any justifiable reason for not abiding by the aforesaid mandate while ordering the release of the respondent accused on bail. Instead of attempting to take a holistic view of the harmful socio-economic consequences and health hazards which would accompany trafficking illegally in the dangerous drugs, the Court should implement the law in the spirit with which the Parliament, after due deliberation, has amended.*

*In the result, appeal is allowed. The impugned Order dated 20 August, 1998 passed by the High Court of Judicature at Allahabad, Lucknow Bench, releasing respondent No. 1, Ram Samujh is quashed and set aside. Respondent No. 1 is directed to surrender.*

8. Since the commercial quantity of contraband is alleged to have been recovered from the vehicle bearing registration No. UP-80 CC-7027, which is allegedly owned by this applicant/accused, so, the embargo contained U/sec. 37 of the NDPS Act is applicable to the applicant/accused. So taking into consideration the nature of accusation, gravity of offence, the provision of Sec. 37 of NDPS Act and the law laid down by their Lordship of Supreme Court in case of ***Union of India v. Ram Samujh and Anr.(supra)***, this applicant/accused **Anuj**

**Kumar** does not deserve the concession of bail, so, this application for grant of bail filed by the applicant/accused **Anuj Kumar** is hereby dismissed.

9. Copy of order be provided to the parties.
10. Attested copy of this order be sent to the concerned Superintendent of Central Jail, Tihar for supplying the same to the accused.

**(PAWAN KUMAR MATTO)**  
**Addl. Sessions Judge (Special Judge NDPS)**  
**North East/KKD Courts/Delhi/10.04.2023**