

**IN THE COURT OF SH. RAJESH KUMAR SINGH ,
SPECIAL JUDGE-NDPS/ASJ (SOUTH) SAKET COURTS, NEW DELHI**

SC 7A/12/2012

7396/2016

DRI Vs. PARAMJIT SINGH GULATI ANR.

08.05.2019

**Order on the bail application of accused Paramjit Singh Gulati
dated 08.03.2019**

1. By this order, I shall dispose of the bail application of the accused Paramjit Singh Gulati filed on 08.03.2019. DRI has filed reply and has opposed the bail application.

2. I have considered the arguments of Sh. Pradeep Virk and Dr. Shelly Sharma Ld. Counsel for accused and the arguments of Ms. Mala Sharma Ld. SPP for DRI. I have also perused the record. In the present case, charge was framed against him and the co-accused Atul Kumar Aggarwal by my Ld. Predecessor vide order dated 05.11.2014 for the offences u/s 29, 28 r/w Section 23,22 r/w Section 29 and Section 25 A r/w Section 29 of NDPS Act 1985. Additional complaint was filed by DRI on which additional charge was framed against both accused by me vide order dated 16.01.2019 u/s 22 (c) r/w Section 29, 23 (c) r/w Section 29 of NDPS Act 1985.

3.1 In support of the arguments that the accused meets the twin conditions u/s 37 of NDPS Act, Ld. Counsel for the accused have referred to some part of evidence which has already been recorded. Ld. Counsel referred to the testimony of PW-9 Devender Singh, PW-17 Manoj Kumar and PW-32 Jaspal

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Singh. PW-9 was the officer who prepared the panchanama in respect of search conducted at G-41, Bali Nagar. In the valuable godown register Ex. PW33/D the name of the officer making the seizure is mentioned as Manoj Thakur, IO. The raid was conducted on 19.07.2012 but in Ex. PW33/D the date of seizure is mentioned as 20.07.2012. PW-32 who is landlord of the premises, introduced a new story regarding presence of Paramjit Singh Bedi @ Chotu and he admitted that the lease with the accused Paramjit Singh Gulati was only for 22 months. The lease had expired before 19.07.2012.

3.2 In the panchnama Ex. PW9/A for G-41 Bali Nagar, it is mentioned that the gross weight of the crystalline powder was 220 grams and the net weight was 215 grams. Three representative samples of 5 grams each were drawn. After drawing the samples, the net weight should have been 200 grams but in Ex. PW33/F the weight of the substance is mentioned 215 grams. Ex. PW9/C is the test memo in respect of the substance allegedly recovered from Bali Nagar. As per panchnama the weight of the sample was 5 grams whereas in the test memo the weight is mentioned as 3.7 grams.

3.3 As per panchnama Ex. PW1/DB for the godown at Mundka, samples of 500 grams were drawn from the drums but in the test memo Ex. PW8/A-2 quantity of the sample is mentioned as 350 ml, in Ex. PW8/A-3 quantity is mentioned as 475 ml. The quantity of the sample is either less or more than 500 grams in almost all of the test memos upto Ex. PW8/A-20. The lease deed of the

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godown at Mundka was in the name of Paramjit Singh s/o Gurjeet Singh and not in the name of the accused Paramjit Singh Gulati/o Gurbaksh Singh.

3.4 The accused Paramjit Singh Gulati was in the custody of DRI but he was not called or taken to the godown at Mundka. The accused Atul Kumar Aggarwal was called there. The landlord was not asked for the keys and the locks were broken.

3.5 According to Ld. Counsel for accused Paramjit Singh Gulati there is no document to connect him seizure made on 18.07.2012 or any other seizure. The statement u/s 67 of NDPS Act was not a voluntary statement. The statement of co-accused Atul Kumar Aggarwal cannot be read against him in view of judgment dated 16.11.2018 by Hon'ble Delhi High Court in bail application no. **1590 of 2018 titled Rajesh Sharma vs DRI**. Ld. Counsel further submitted that some additional documents were filed by DRI after examination of relevant witnesses and they will need to recall some of the witnesses to further cross-examine them. One such witness is PW-1 Manoj Thakur.

4. At the stage of deciding bail application, it is not appropriate to minutely to examine the evidence. Some contradictions cannot be treated in isolation. The entire evidence is to be appreciated to come to the conclusion whether there is any contradiction which goes to the route of the matter. We are at the stage of prosecution evidence. 33 witnesses have already been examined. In the month of April 2019, matter was taken up on day to day basis for examination of the

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PWs and now the matter is listed on 17.05.2019 for a review regarding the further course of action to expedite the trial. It is also pertinent to note that for deciding the matter not only the quality of evidence produced by the prosecution is important but the statement u/s 313 Cr. PC and the defence evidence if any, led by the accused has to be considered. The discrepancies pointed out by Ld. Counsel for the accused are not of such nature on the basis of which it can be said that the case of the prosecution is bound to fail no matter what further evidence is led by them. The issue of shortage in the weight of sample has to be considered in view of the judgment by Hon'ble Supreme Court in the matter of **CBI vs Dilbagh Singh (2004) 13 SCC 99** which has been relied upon by Hon'ble Delhi High Court in the matter of **Sunday Emegho vs State 2012 SCC OnLine Del 5140**. Correct appreciation can be done only at the final stage.

5. It is also not correct to say that there is no evidence to link the accused Paramjit Singh Gulati with the recoveries made in this case especially the recovery at the airport on 18.07.2012 which is the starting point of this case. The relevant documents are mentioned as attachment in e-mail Ex. PW1/E-7 which is stated to belong the accused Paramjit Singh Gulati. The shipment in question was in the name of M/s Sagar Impex which is a fictitious firm. It is also not correct to say that the statement of accused u/s 67 of NDPS Act or the statement of the co-accused u/s 67 of NDPS Act have no value. The statement

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of the accused u/s 67 of NDPS Act can be relied upon if the same is found to be voluntary and is supported by material on record. Statement of co-accused is admissible against the accused if the conditions mentioned u/s 30 of the India Evidence Act 1872 are satisfied.

6. The accused has not been able to satisfy the Court that he meets the twin conditions u/s 37 of NDPS Act 1985 to entitle him to bail. There are grave allegations and it will not be appropriate at all to grant bail to the accused. The bail application of accused Paramjit Singh Gulati is dismissed. **Copy of this order be given dasti to Ld. Counsel for accused.**

(announced in the
open Court on
08th May 2019)

(Rajesh Kumar Singh)
ASJ/Special Judge (NDPS Act)
South District, Saket