

SC No. 7256/16
DRI VS ANIL KUMAR & ORS.

15.10.2025

Present :- Ms. Mala Sharma, Ld. Counsel for DRI
Accused Anil Kumar and Manu Khosla on bail
through VC.
Accused Amit not produced from JC, Kasna Jail. (on
bail in this case).
Sh. Sushil Kumar, Id. LAC for accused Anil Kumar.
Sh. SS Das, Ld. Counsel for accused Manu Khosla
and Amit.

This is an application u/S 52A NDPS Act, moved on behalf of DRI seeking to draw fresh samples from the case property under the supervision of the Ld. Magistrate, certifying the correctness of the inventory, taking photographs of the seized substance and certifying the correctness of photographs.

I have considered the rival contentions and perused the record carefully.

1.0 In the present matter, various recoveries of contraband substance were effected by the DRI in the month of April 2013. The recovered contraband was seized and samples were drawn on the spot by the IO. Said samples were sent to CRCL New Delhi and CFSL Hyderabad which confirmed the presence of contraband substance under the NDPS Act.

1.1 As per record, charges were framed against the accused persons in the year 2016 and the matter is pending at the stage of prosecution evidence. Till date, 33 witnesses have already been examined in the matter. Now after more than 12 years since

recovery, seizure and drawal of samples, the DRI is seeking re-drawal of samples under the supervision of a Magistrate.

2.0 The Hon'ble Supreme Court in the case of ***Thana Singh Vs. Central Bureau of Narcotics***, (2013) 2 SCC 590, had issued various directions and guidelines which have to be followed by the Courts during the trials for the offences under the NDPS Act. The Hon'ble Court inter alia held that any requests as to retesting / resampling shall not be entertained under the NDPS Act as a matter of course. The same may however, be permitted only in extremely exceptional circumstances for cogent reasons to be recorded. It was held that in the absence of any compelling circumstances, any form of retesting / resampling is strictly prohibited.

2.1 In the instant case, the samples were drawn at the spot by the IO and thereafter, the samples were sent to CRCL as well as CFSL. There is nothing to suggest that the said government laboratories were not equipped or lacked equipment to conduct such tests for the presence of any narcotic drugs or psychotropic substances. Further, the record would show that presence of contraband substance was confirmed by the lab reports. The only ground for moving the present application is that the samples were not drawn under the supervision of a Magistrate. The same is not a valid ground to direct re-sampling, in view of decision in ***Thana Singh's case (supra)***. Further, the same would amount to allowing the prosecution to fill up the lacuna in its case and therefore, the same cannot be permitted.

2.2 It is also noteworthy that an application u/S 52A was previously moved by the DRI in the year 2015, however, the said application was dismissed by the Ld. Predecessor vide order dated 07.12.2015. For the said reason also, the present application cannot be allowed.

2.3 The present matters pertain to the recoveries effected in the year 2013. The prosecution complaint was also filed in the year 2014. The case is already more than 11 years old. By allowing a re-sampling, the court cannot permit the prosecution to turn back the clock as the same is likely to lead to a re-trial. Further, as noted above, re-sampling cannot be permitted unless there are exceptional circumstances.

2.3 I am of the opinion that no ground is made out to allow resampling, photography and verification of inventory / photographs. Accordingly, **the application is dismissed.**

3.0 **Another application moved on behalf of DRI u/S 311 Cr.PC**, for bringing on record, copy of seal movement register is also on record.

3.1 Arguments on the said application have also been heard.

3.2 It has been submitted on behalf of DRI that examination in chief of PW6, IO Ashok Kumar was deferred on 05.03.2018, for want of copy of seal movement register vide which he had obtained the seal from Sh. DP Saxena. It was submitted that copy of seal movement register was already available on judicial file, however, the said copy contained entries from S. No. 46 to 53,

whereas, the relevant entry pertaining to PW6 Ashok Kumar was at S.No. 45.

3.3 The application was opposed by Ld. Counsels for the accused persons on the ground that the prosecution cannot be allowed to produce fresh documents at this belated stage.

3.4 As per the story of the prosecution, PW6 had obtained the seal from Sh. DP Saxena and relevant entry in this regard was made in the seal movement register. Copy of seal movement register was already placed on record by the DRI. However, the relevant entry was not available in the copy placed on court record. It has been submitted on behalf of DRI that due to inadvertence, the copy of correct page could not be brought on record. I am of the opinion that for the just decision of the case, an opportunity needs to be granted to the prosecution to bring the relevant document on record. **The application u/S 311 Cr.PC is accordingly allowed and copy of seal movement register is taken on record.**

4.0 **Another application moved on behalf of accused Amit Singh and Manu Khosla seeking day to day trial** is also pending adjudication.

4.1 It is noted that the present matter is a very old case being filed in the year 2014. This Court had previously also apprised both the sides that the present matter would be expedited considering the age of the present case. Endeavour would be made to dispose off the case at the earliest. Both the sides are further directed not to seek any unnecessary adjournment and also to ensure that the witnesses and the accused persons are present on

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each and every date. In order to further cut short the number of witnesses, the Ld. Counsels shall go through the court record and come prepared for recording proceedings u/S 294 Cr.PC on the next date of hearing. With the above observations, **the present application also stands disposed off.**

Copy of the order be given dasti.

List on 14.11.2025 and 21.11.2025 for PE.

(Gaurav Gupta)
Special Judge-NDPS/ASJ (South)
Saket Courts/15.10.2025