

SC 455/2022
STATE Vs. OBINNA AUGUSTIN NDUBUBA
FIR NO. 243 /2022
PS (Mehrauli)

23.02.2023

Present: Sh. Inder Kumar, Ld. Addl. PP for the State.
Accused produced from JC with Ld. Counsel, Sh. Shyam
Sunder Aggarwal.

Heard arguments on charge.

Ld. Counsel for the accused seeks discharge on the ground that no public witness was present when the alleged recovery was made and that the procedure u/s. 50 NDPS Act was not followed while conducting the search of the accused. Further, Ld. Counsel argued that the FSL result has not yet come even after almost a year of samples being given which is also a ground for discharge of the accused.

On the other hand Ld. Addl. PP for State argued that indeed a prima facie case is made out against the accused on the basis of material on record and even if the FSL report is not on record charge can be framed on the basis of the testimony of the recovery witnesses and the witness who conduct a colour test from the field testing kit immediately after the recovery.

After considering the entire record and the submissions made, there is sufficient material on record to charge the accused for offence **u/s. 21 (c) of NDPS Act**. Non-availability of the public witnesses will not at this stage effect the case of the prosecution by FSL result is a conclusive evidence of the contents of the recovered substance, however, at this stage of renew of charge even a prima

facie grave suspicion is sufficient to proceed ahead against the accused with framing of the charge. The accused is anyways in JC and there is no certainty if the FSL result is available in future.

Charge is accordingly framed **u/s. 21 (c) of NDPS Act** to which accused pleaded not guilty and claimed trial.

To come up for PE on **25.04.2023. At least two witnesses be summoned for the next date of hearing.**

(Monika Saroha)
Special Judge-NDPS/ASJ (South)
Saket Courts/23.02.2023