



In The Court of Judge Special Court NDPS Act, Nagpur.

Presided over by
Shri. P. M. Nagalkar.

I. A. No.1 of 2024.

Special Case No.97 of 2024.

CNR No: MHNG010019722024.

Crime No.DRI/MZU/NRU/INT-104/ENQ-34/2023.

Deepak S/o Ramlal Dhiman

V/s

State of Maharashtra.

(Through intelligence Officer, Directorate of Revenue
Intelligence, Nagpur.)

Order Below Exh.5.

(Date: 22nd October 2024.)

1. This is an application for issuance of directions as applicant/accused Deepak S/o Ramlal Dhiman, be released on bail, U/Section 439 of the Code of Criminal Procedure. Applicant/accused booked in Crime No.DRI/MZU/NRU/INT-104/ENQ-34/2023 for the offences punishable U/Sections 8(c), 21, 22, 23, 28 and 29 of the NDPS Act.
2. Perused the application along with documents annexed here with and say/report of Investigating Officer/APP. Heard both the sides at length.
3. In the light of this facts emerged, submissions by the parties and material on the record, the following points arise for determination before this Court. The said points and the findings thereon which follow the reasons as:

Point For Determination.

Sr. No.	Point	Finding
1.	Whether the applicant/accused Deepak S/o Ramlal Dhiman, made out the case as to issuance of direction as to be released on bail, in the given set of facts?	...No.
2.	What order?	...Application Rejected as per final order.

REASONS***As to the point no.1:***

4. It appears that complaint lodged by Intelligence Officer, Directorate of Revenue Intelligence, Nagpur. Brief facts as appears that the applicant along with other accused Sunday Udogadi Ihekaigbo (Nigerian) booked in the present crime. That the applicant Deepak was arrested on 20/08/2023 was travelling and carrying with NDPS substance. Immediately this information was reported to Superior Officer. As it is further submitted that applicant Deepak was passenger on aboard Flight No.G9-415 Arabia arrived and after clearance proceeded for custom clearance on suspicion drug was found. Hence, informed to the DRI Officer. The applicant was intercepted and inquired. After following due procedure search was made. However, nothing was found incriminating in nature from his baggage. However, in the bag one rectangular black colour box found. It was notice that some parts of machines.
5. After removing said transparent tape upon opening one black colour cylindrical roller was found and which was welded that small gear to pretend as machine parts. It was tried to open, but it could not get open, therefore, with help of hammer and small chisel opened and it

was found that two poly bags one was of white colour and second was black colour. Both poly bags were filled with lumps and powder. The same was seized. It was found 3070 grams in gross with two poly bags and it was found drug detention kit presence of Amphetamines Substance type found. As such the applicant was arrested after following due procedure and further investigation he had been booked. Further, it appears that after investigation role of other accused revealed.

6. On behalf of the applicant it is argued that the applicant was totally unaware and seizure was not made and is not admissible as statement made by the accused under Section 25 and 26 of the Indian Evidence Act. He is in jail since his arrest and there is absolutely no case that he was found in conscious possession of the said contraband.
7. On the other hand the application strongly opposed by the DRI that the alleged contraband was found is in commercial quantity and also it is trafficking of drugs from one Country to another. Therefore, Section 23 and 24 of the NDPS Act is applicable.
8. Since, it is commercial quantity and rigor of Section 37 of the NDPS Act is also applicable. Nothing investigation remains itself is not ground for grant of bail. As Section 37 of the NDPS Act provides the applicant has to show he was in conscious possession and there is no reasonable ground as he had been guilty for offence as mentioned. In this backdrop it is not fit case to exercise the discretion of bail. Hence, the finding of point no.1 is recorded as '**Negative**'. Consequently, proceed to pass following order.

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ORDER

1. Application is rejected.

Dictated and pronounced in open Court.

Date : 22nd October 2024.

(Pramod M. Nagalkar)
Judge Special Court NDPS Act, Nagpur.