

MHRG170020942022



**ORDER BELOW EXH. 18**  
**IN SPECIAL (NDPS) CASE NO.173/2022**  
**DRI FILE NO.DRI/MZU/NS-II/INT-35/2022**  
**UNION OF INDIA V/S. DAVINDER SINGH**  
**( PASSED ON 02<sup>nd</sup> DAY OF MAY, 2023 )**

The applicant/accused moved this application vide Section 439 of the Code of Criminal Procedure to enlarge him on bail.

2. This application is strongly opposed on behalf of prosecution vide Exh.21.

3. Points for the determination and my findings thereon for the reasons stated below ;

<b>SR. NO.</b>	<b>POINTS</b>	<b>FINDINGS</b>
I.	Whether grounds are justified to release the applicant/ accused on bail vide Section 439 of the Code of Criminal Procedure ?	No.
II.	What Order ?	The application is Dismissed.

## REASONS

4. Perused application, say filed. Heard learned advocate Shri.Indrajeet Bhosale for the applicant/accused as well as learned advocate Shri.P.V.Mhatre for respondent.

### AS TO POINTS NO. I AND II :

#### BRIEF FACTS OF PROSECUTION :

5. The officers of Directorate of Revenue Intelligence intercepted the container which was imported under bill of entry and same was examined on 29.04.2022 at Asthe Logistics Private Limited. During the said examination, the contraband 29 kg Herion was recovered and seized under panchnama. The said parcel was imported by M/s. Bhol Nath and Sons, New Delhi.

6. On that count, the informant/Intelligence officer lodged the report at Directorate of Revenue Intelligence. DRI registered Crime File No.DRI/MZU/NS-II/INT-35/2022 for the offence under Section 23, 25, 27, 28, 29, 30 read with Section 8(c), 29 of the Narcotic Drugs Psychotropic Substances Act against present applicant/accused.

7. The police arrested the accused/applicants on

02.05.2022 and produced before the Court at Delhi for transit remand and then produced before the learned magistrate on 04.05.2022. Initially, he was remanded to DRI custody till 09.05.2022 and then remanded to judicial custody. Presently, the applicant /accused is in Judicial Custody.

**WHETHER GROUNDS OF BAIL ARE MADE OUT ?**

8. The officers of DRI initially intercepted the container and after examination 29 kg Herion was recovered and seized. The parcel was imported by M/s. Bhol Nath and Sons, New Delhi. Mrs. Shalini Agarwal was the proprietor of it as such, she was summoned. She disclosed the name of her husband Mr.Rajesh Agarwal who conduct the said business. Further, upon the statement of her husband, name of present applicant, Mr.Nagraj C. , Miss. Pearly Murra were summoned for involving import of goods from Afganistan. In the light of their revelations, the involvement of present applicant was crystalized. The residential premises of applicant was searched and contraband opium 2.5 kg was seized vide panchnama Dated 01.05.2022. Then this applicant was summoned and his statement was recorded.

9. Learned advocate of applicant Shri.Indrajeet Bhosle vehemently argued that DRI officers have given clean chit to

Mr.Rajesh Agarwal though he has imported the parcel in the said container. The said container was not seized. The recovery of contraband 2.5 kg was at the place of Delhi. The seizure of the said contraband has no nexus with the seizure of Herion in present crime. The statement of applicant vide Section 67 of the NDPS Act is inadmissible.

10. In the light of reply by respondent and from the submission of learned advocate of respondent, it is apparent that it was never case of prosecution that seizure of 2.5 kg Charas connected with 29 kg of Herion. The recovery of 2.5 kg Charas from the residence of the applicant transpires he was dealing in different types of Narcotic substances. The applicant purchased 2.5 kg Charas for Rs.1,05,000/- in order to earn money and the said transaction is reflected in the Bank account statement of the applicant.

11. Subsequent to the seizure of 29 kg Herion during examination of the container, that time Mr.Rajesh Agarwal was interrogated and noticed that the applicant had imported the said consignment. Thus the present applicant is a consigned of the said consignment. This applicant has financed Rs.30,000/- to his for clearing the said consignment and the same is corroborated by the Bank account statement.

12. Further the whatsapp chats between Aziz from Afghanistan and CHA from Karachi revealed that they were planning to send more consignment of drugs in India concealed in the consignments of dry fruits. The digital evidences collected reveals the conspiracy of the applicant with Afgani nationals, Pakistani nationals for dealing in other consignment of drugs. The statement of this applicant vide Section 67 of the NDPS Act is an additional corroboration to the material collected.

13. The present applicant was earlier arrested by Delhi police under NDPS Act of the contraband smack weighing 5 kg. He was lodged in prison from the year 2005 to the year 2010. According to the learned advocate of applicant, he is acquitted from the said crime. However, from these cases it transpires antecedents of the applicant and his involvement in such like nature of offences. This applicant paid substantial amount towards the purchase of Charas.

14. In the light of foregoing, there is enough material available on record which establishes that the applicant in collusion with other national and international person hatched conspiracy to import 29 kg Herion and also purchased 2.5 kg Charas from Delhi. Looking to the commercial quantity of the contraband coupled with involvement of present applicant as

such, bar vide Section 37 of the NDPS Act is applicable. The applicant does not deserve for bail. I answer Point No.I in the negative. With this, I pass following order ;

**ORDER**

1.	The application for regular bail vide Section 439 of the Code of Criminal Procedure on behalf of the applicant is dismissed.
2.	A soft copy of this bail order be forwarded to Superintendent, Talaja Jail by e-mail for information in view of observation of <b>Hon'ble Apex Court in the case of In Re Policy Strategy For Grant of Bail in SMWP (CRIMINAL) NO.4/2021, Dated 31.01.2023.</b>
3.	Inform to Directorate of Revenue Intelligence – Respondent accordingly.
	Dictated and pronounced in Open Court.

**Place : Panvel.**

**Date : 02.05.2023**

**( K.G. Paldewar )  
Additional Sessions Judge,  
Panvel**

Arguments heard on	17 <sup>th</sup> Day of April, 2023.
Judgment delivered on	02 <sup>nd</sup> Day of May, 2023.
Dictated on	02 <sup>nd</sup> Day of May, 2023.
Transcribed on	02 <sup>nd</sup> Day of May, 2023.
Checked and signed on	02 <sup>nd</sup> Day of May, 2023.

### **CERTIFICATE**

I affirm that the contents of this PDF file Judgment/Order is same and as per the original Judgment/Order.

Name of the Stenographer : P.S.Mhatre  
Name of the Court : Additional Sessions Court,  
Panvel  
Date of Judgment/Order : 02.05.2023.  
Judgment/Order signed on : 02.05.2023.  
Presiding Officer : K.G. Paldewar  
Judgment/Order uploaded on : 02.05.2023.