

**IN THE COURT OF ADDITIONAL SESSIONS JUDGE &
COURT OF SPECIAL JUDGE CONSTITUTED UNDER NIA ACT
2008 FOR GUJARAT AT BHADRA, AHMEDABAD**

NIA CRIMINAL MISC. APPLICATION NO. 65 OF 2022

Applicant: Razak Adam Sumra,
Age : 42 years,
Residing at Village : Baag,
Gundiyali, Mandavi,
Dist. Kachchh.

(At present in Central Jail, Sabarmati,
Ahmedabad)

Versus

Opponent: 1. The State of Gujarat
2. National Investigating Agency

Appearance:

Mr.K.R.Dave, LA for the applicant
Mr.M.G.Kapadia, Ld. Special PP for the opponent - the State.

JUDGEMENT

1. Present application has been moved by the applicant under Sec.439 of Cr.P.C. for granting him regular bail in connection with the FIR registered as RC No.26/2020/NIA/DLI with NIA, Branch Office, Mumbai (arising out of FIR No.01/2018 dated 12-08-2018 of ATS, Police Station, Gujarat) for the alleged offences under Sec.120(B) of IPC, u/S.17 and 18 of UA(P) Act.

2 The Court has issued notice to the Special PP and PI/NIA has filed his reply through Spl. PP. NIA Mr.Mukesh Kapadiya at Exh.5.

3. Mr. K.R.Dave, LA for the applicant submitted that the applicant is in judicial custody from 10-2-2020 pursuant to the said FIR. He has further submitted that it is alleged by the prosecution that total 500 Kg of Heroin was received on coast of Kachchh and delivered to Punjab. The present applicant was contacted by co-accused to deliver last batch of 200 Kg of Heroin. The co-accused and the applicant dug out the same and was kept in the car of the applicant and was given to other two accused on Talwada Road and thereafter, those two accused had given it to one driver for delivery to Punjab.

He has further submitted that the role attributed to the applicant is to dig out heroin and delivered it to accused No.7 and 8. It is also alleged by the prosecution that the vehicle of the applicant No.GJ-12-BR-4344 was used. In fact the said card does not belong to the applicant. There is no evidence that the applicant was involved in this crime. The present applicant is wrongly roped into this crime, as the brother of the applicant was arrested in this case.

He has further submitted that the applicant is innocent and falsely implicated in the offence. He had not played any role as alleged by the prosecution. There is no evidence to show involvement

of the applicant in the crime. It is alleged that the applicant was in contact with other co-accused, for which CDR was called for, but at the time of filing of charge-sheet on 7-8-2020, it is submitted that CDR is awaited. The applicant is innocent and he had no contact with accused No.1. He has been arrested only on suspicion and no evidence. The applicant is behind the bars for more than 2 years. No contraband substance is found in custody of the applicant. It is also very important to note that as per the allegations, the said parcel of heroin was intercepted by the Punjab Police and complaint came to be filed against the said driver and 11 other accused were arrested by STF, Amritsar. The applicant is not accused in that case and therefore, it is clear that the applicant had no role in this crime. He has, therefore, submitted to regular bail to the petitioner in the interest of justice.

4. On the other hand, Mr.Mukesh Kapadiya, Special PP, NIA for Ahmedabad has strongly objected this application. Referring to the reply filed by the NIA at Exh.5, that the case was registered by ATS Police Station Ahmedabad, Gujarat vide Cr.No.01/2018 under Sections 8(c), 21(c), 24, 25, 27(A) and 29 of the NDPS. The offences initially pertains to criminal conspiracy by arrested A-1 to A-8 and wanted accused WA-1 to WA-5 of smuggling and distribution of 500 kg of illegal narcotic drugs (heroin) from Pakistan to Gujarat,

India by sea route. The 500 Kg of narcotic drugs (heroin) were brought into Gujarat, India by Aziz Bhagad (A-1) and Mamad Ibrahim Sama (A-13) on the directions of Basheer Dawood Kungda (A-12). The illegal narcotic drug (heroin) was brought by Pakistani nationals in a Pakistani fishing vessel and was delivered in the Indian territorial waters approximately 7-8 miles from Jakhau Port, Kutch, Gujarat, into an Indian vessel named "Nagani Mustafa" of Aziz Abdul Bhagad A-1 and "Al-Madina" of A-13. The drug was delivered to Indian vessels twice during the period from 9-3-2018 to 31-5-2018. Thereafter, the completion of investigation of ATS, charge-sheet was filed against A-1 to A-5 in the Special NDPS Court, Jam Khambaliya, Gujarat on 23-01-2019. Thereafter, in compliance to the order of Ministry of Home Affairs, Government of India, dated 29.06.2020, NIA re-registered the case as RC-26/2020/NIA/DLI dated 02-07-2020 and subsequently, NIA took over the investigation and got transferred all the case papers / documents /articles along-with the physical custody of all the 8 arrested accused persons from the Special NDPS Court, Jamkhambaliya to NIA, Special Court, Ahmedabad, Gujarat.

The learned Special PP for NIA submitted that after the investigation, NIA filed a supplementary charge-sheet vide No.02/2020 dated 7-8-2020 in Special Court Ahmedabad against

accused persons A-1 to A-8. It revealed during that investigation that 500 kgs of narcotics drug was delivered by Pakistani vessel to the Indian vessel of Aziz Abdul Bhagad (A-1) and Mamad Ibrahim Sama (A-13) in Indian territorial water which was further delivered to Shahid Kasam Sumra (A-11) & Rafik Adam Sumra (A-2). 295 kgs of the narcotic drugs were handed over by A-11 & A-2 to Nazir Ahmad (A-3), Manzoor Ahmad (A-5) and Simranjit Singh Sandhu (WA-2) who then concealed the same in the sacks of Cumin and Suva seeds and transported the same to Amritsar, Punjab, through Akshar Transport. 200 kg of narcotic drugs out of the 500 kgs of narcotic drug heroin was buried and concealed by Rafik Adam Sumra (A-2), Shahid Kasam Sumra (A-11) and the applicant-accused Razak Adam Sumra (-6) in the farm of A-2 and the applicant accused A-6, in village -a Baag.

He has further submitted that as per the conspiracy and directions of Shahid Kasam Sumra (A-11), the applicant-accused dug out remaining 200 kg narcotic drugs (heroin) and kept it in his Swift Desire car, bearing registration No.GJ-12-BR-4334 and delivered it to one white coloured car near a Petrol Pump on Talwada Road, which belonged to accused Karim Md. Siraj (A-7). Then the accused Karim Md. Siraj (A-7) and Sunil Vithal Barmase (A-8) shifted the drugs to a Skoda car and took the 200 kgs narcotic

drugs (heroin to Gandhidham, which was then loaded and concealed between the wooden panels in the truck No.GJ-12-BW-2323 of accused Indresh Nishad (A-9) for further delivery to Amritsar, Punjab. The vehicle registration number GJ 12 BR 4334 Swift Dezire used by the present applicant (accused No.6) for the delivery of 200 kgs Heroin has been recovered and the said vehicle was registered in the name of witness Shri Juneja Akil and it has been established from his statement that he has sold his vehicle to the present applicant and he was using the same vehicle. He has therefore, submitted that further investigation U/s 173 (8) Cr.P.C. is still under progress to unearth the Punjab portion of the conspiracy and arrest the accused persons involved in the instant case. There exists strong case against the present accused applicant and therefore, submissions made in the bail application are baseless and without any substance and does not disclose any cogent grounds for grant of relief as sought under regular bail.

He has further submitted that as per Sec.37 of NDPS Act, a person who has committed an offence is punishable for a term of imprisonment of 10 years or more shall generally be not released on bail. He has also placed reliance upon a decision of Hon'ble Apex Court in the case of **Babu @ Tazmul Hossain Vs. State of Orissa 2001(1) ALD (CrI) 349 (SC)** in this regard. He has therefore,

submitted that the applicant has played vital role in the offence and committed serious offence and as such, if the present accused applicant Razak Adam Sumra (A-6) is released on bail, he will remain absent from the trial of the case and there is every possibility that he will abscond and there is a likelihood that he will tamper with the evidence of the case and will influence the witnesses. He has therefore, submitted that the present application is filed on tenuous grounds and the same holds no substance for the grant of bail in view of the serious offence committed by him and. He has, therefore, submitted to dismiss this application.

7. After considering rival submissions of the both the sides and on perusal of the application, reply filed by the IO of NIA at Exh.5 and having gone the record, it transpires that the present applicant is accused in connection with the FIR registered as RC No.26/2020/NIA/DLI with NIA, Branch Office, Mumbai (arising out of FIR No.01/2018 of ATS, Police Station, Gujarat) for the offences punishable under Section 120B of IPC, Section 21(c) r/w 8(c), 25, 27(A) & 29 of NDPS Act and Section 17 and 18 of the Unlawful Activities (Prevention) Act.

8. The present applicant is accused No.6 in this case. The learned Special has strongly objected this application and mainly submitted that the applicant has played vital role in the commission

of the offence and there exists strong case against the present applicant. On perusal of the record, it appears that during the investigation 500 kgs of narcotics drug was delivered by Pakistani vessel to the Indian vessel of Aziz Abdul Bhagad (A-1) and Mamad Ibrahim Sama (A-13) in Indian territorial water which was further delivered to Shahid Kasam Sumra (A-11) & Rafik Adam Sumra (A-2). 295 kgs of the narcotic drugs were handed over by A-11 & A-2 to Nazir Ahmad (A-3), Manzoor Ahmad (A-5) and Simranjit Singh Sandhu (WA-2) who then concealed the same in the sacks of Cumin and Suva seeds and transported the same to Amritsar, Punjab, through Akshar Transport. 200 kg of narcotic drugs out of the 500 kgs of narcotic drug heroin was buried and concealed by Rafik Adam Sumra (A-2), Shahid Kasam Sumra (A-11) and the applicant-accused Razak Adam Sumra (A-6) in the farm of A-2 and the applicant accused A-6, in village - Baag.

9. It further alleged that as per the conspiracy and directions of Shahid Kasam Sumra (A-11), the applicant-accused had dug out the remaining stock of 200 kgs Heroin and kept it in his Swift Desire car, bearing registration No.GJ-12-BR-4334 and delivered it to one white coloured car near a Petrol Pump on Talwada Road, which belonged to accused Karim Md. Siraj (A-7). Then the accused Karim Md. Siraj (A-7) and Sunil Vithal Barmase (A-8) shifted the drugs to a Skoda

car and took the 200 kgs narcotic drugs (heroin to Gandhindham, which was then loaded and concealed between the wooden panels in the truck No.GJ-12-BW-2323 of accused Indresh Nishad (A-9) for further delivery to Amritsar, Punjab. The vehicle registration number GJ 12 BR 4334 Swift Dezire used by the present applicant (accused No.6) for the delivery of 200 kgs Heroin has been recovered and the said vehicle was registered in the name of witness Shri Juneja Akil and it has been established from his statement that he has sold his vehicle to the present applicant and he was using the same vehicle.

10. So, having gone the record, it appears that the present applicant has played a vital role in the instant case. In the circumstances, therefore, taking to consideration of the gravity of the offence, the role of the present applicant, this Court is of the considered opinion that it is not a fit case to exercise discretion in favour of the applicant. I also find much substance in submissions of the learned Special PP that if the present accused applicant Razak Adam Sumra (A-6) is released on bail, he will remain absent from the trial of the case and there is every possibility that he will abscond and there is a likelihood that he will tamper with the evidence of the case and will influence the witnesses. Hence, I pass the following order :-

ORDER

The NIA CRMA No.65/2022 is hereby rejected It stands dispose of accordingly.

Pronounced in open court today this 29th August, 2022.

**(MRS.MAMTA RAMANLAL SHAH)
Special Judge (NIA), Court No..2
City Civil & Sessions Court,
AHMEDABAD
(UID GJ00446)**

DT.29-08-2022