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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CRL.REV.P. 1199/2024, CRL.M.A. 30046/2024**

JAVED

.....Petitioner

Through: Mr. Pritish Sabharwal, Advocate *via*
video-conferencing.

versus

STATE GOVT. OF NCT OF DELHI

.....Respondent

Through: Mr. Tarang Srivastva, APP for the
State with SI Vikas Dey & ASI
Sanjay, PS: Crime Branch.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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07.10.2024

CRL.M.A.30047/2024

Exemption granted, subject to just exceptions.

Let requisite compliances be made within 01 week.

The application stands disposed of.

CRL.REV.P. 1199/2024

By way of the present petition filed under section 397 read with section 401 of the Code of Criminal Procedure, 1973, the petitioner impugns order dated 23.07.2024 passed by the learned Special Judge, (NDPS), Karkardooma District Courts, New Delhi in case FIR No. 0072/2021 registered under sections 21/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act') at P.S.: Crime Branch, Delhi. By that said order, the learned Special Judge has been pleased to frame charge against the petitioner under section 174-A of the Indian Penal Code 1860 ('IPC') while holding that there was no



incriminating material on record against the petitioner insofar as the charge under sections 20/29 of the NDPS Act is concerned. In the impugned order, the learned Special Judge has made the following observations :

“Ld. Counsel for the accused further submits that though the accused was not aware of the present proceedings, however, he fairly concedes to the charge u/s 174-A IPC. The perusal of supplementary chargesheet filed against the accused Javed does show that he was declared proclaimed person by the Court after he failed to appear after issuance of process under section 82 Cr.PC. Accordingly Accused Javed is liable to be charged for the offence under section 174A IPC.

“Charge u/s 174-A IPC is framed against the accused Javed to which accused pleads not guilty and claims trial.”

(emphasis supplied)

2. Mr. Pritish Sabharwal, learned counsel appearing for the petitioner submits, that it is apparent that there are internal contradictions in the impugned order, inasmuch as in the one breath the learned Special Judge records that the petitioner has said that he was *not aware of the proceedings*; in the next breath, the learned Special Judge records that the petitioner *concedes to framing of charge* under section 174-A IPC and pleads not guilty.
3. Mr. Sabharwal further argues, that in any case, a *charge cannot be framed on concession* and the learned Special Judge ought to have satisfied himself that there was sufficient material on record to frame the charge, regardless of what the petitioner may or may not have said, which the learned Special Judge has evidently not done. It is submitted that once it was recorded in the order that the petitioner says that he was not aware of the pendency of the proceedings, the



learned Special Judge ought to have looked at whether there was sufficient material on record to show that the petitioner had knowledge of pendency of the proceedings.

4. Issue notice.
5. Mr. Tarang Srivastava, learned APP appears for the State on advance copy; accepts notice; and seeks time to file status report.
6. Let status report be filed at least 03 days before the next date; with copy to the opposing counsel.
7. Re-notify on 17th January 2025.
8. In the meantime, on a *prima-facie* view of the matter based on a perusal of the impugned order, further proceedings in case FIR No. 0072/2021 registered under sections 21/29 NDPS Act at P.S.: Crime Branch, Delhi pending before the learned Special Judge, (NDPS), Karkardooma District Courts, New Delhi *shall remain stayed*, till the next date of hearing before this court.

ANUP JAIRAM BHAMBHANI, J

OCTOBER 7, 2024/ss