

Bail Application No.1617/2020
State vs. Bhagwati @ Babli
FIR No. 54/2019
PS: Chankya Puri
u/s 364A/384/389/420/471/120B/34 IPC

18.08.2020

Present : Sh. Dharam Chand, Addl. PP for State, through VC.
Sh. Santosh Kumar Sharma, Ld. Counsel for applicant/
accused Bhagwati @ Babli, through VC.

The present application for grant of interim bail has been moved on behalf of accused/ applicant Bhagwati @ Babli.

Apart from stating that the applicant has been falsely implicated in this case with malafide intentions and there is no recovery from the applicant, it is submitted that the applicant is the sole bread earner of her family. The husband of applicant is suffering from critical illness and there is no one in the family to take care of him. Certain medical documents have been annexed with the bail application.

In the reply to the bail application, it is submitted that the medical documents filed alongwith the bail application are very old.

Ld. Addl. PP has opposed the bail application stating that it is merely a pretext for taking bail as firstly, the medical documents are very old and secondly, no serious ailment has been shown in the medical documents.

On the other hand, it is submitted by ld. counsel for the applicant that the applicant is required to be home to take care of

her husband.

I have considered the rival submissions and gone through the medical documents filed alongwith the bail application.

Except two prescriptions, all the prescriptions pertain to the year 2019 and the two prescriptions are probably of February 2020. Even in these two prescriptions, no serious ailment has been shown to be existing. Therefore, I do not find that there is any emergency which would require the applicant to be released on interim bail. The application at hand is accordingly dismissed.

Order be uploaded on the website of Delhi District Court.

(Parveen Singh)
ASJ-03/NDD/PHC/New Delhi
18.08.2020

It is certified that Video Conferencing was held in an uninterrupted manner and during the proceedings, no objections were raised by either of the parties regarding the connectivity i.e. audio or visual quality.

Reader/18.08.2020

**Bail Application No.
State vs. Deepak Kumar
FIR No. 79/2018
PS: Naraina**

18.08.2020

Present : Sh. Dharam Chand, Addl. PP for State, through VC.
Sh. Vishal Chhilar, Counsel for applicant Deepak through VC.

Ld. counsel for applicant has joined through VC but due to poor network connection on the side of the counsel, he is unable to argue the matter.

In these circumstances, the matter is adjourned.

Re-notify for arguments on bail application on 21.08.2020.

Order be uploaded on the website of Delhi District Court.

**(Parveen Singh)
ASJ-03/NDD/PHC/New Delhi
18.08.2020**

It is certified that Video Conferencing was held in an uninterrupted manner and during the proceedings, no objections were raised by either of the parties regarding the connectivity i.e. audio or visual quality.

Reader/18.08.2020

FIR No. 09/19
PS Special Cell
State Vs. Rajesh Dutta @ Raj

18.08.2020

Present: Sh. Ravinder Kumar, Ld. Addl. PP for the State through VC.

Today the matter is listed over the report of execution of NBW and deposit of surety amount however the order dated 30.07.2020 has already been stayed and the application for cancellation of NBW and recalling order of attachment is already listed for 01.09.2020.

Accordingly, list this matter for 01.09.2020.

(Ajay Kumar Jain)
Special Judge-NDPS
New Delhi/18.08.2020

NCB Vs. Rafik & Ors.
Case No. SC/107/2018

18.08.2020

Present: Sh. P.C. Aggarwal, Ld. SPP for NCB through VC.

Today the matter is listed over the report of execution of NBW and deposit of surety amount however the order dated 18.07.2020 has already been stayed and the application for cancellation of NBW and recalling order of attachment is already listed for 20.08.2020.

Accordingly, list this matter for 20.08.2020.

(Ajay Kumar Jain)
Special Judge-NDPS
New Delhi/18.08.2020

FIR No. 161/2020
State Vs. Mohd. Samiul @ Raj & Ors.
PS Special Cell

18.08.2020

Present: Sh. Ravinder Kumar, Ld. Addl. PP for the State alongwith IO SI Rakesh Kumar through VC.

An application for granting permission for taking voice samples of accused Md. Samiul @ Raj, Md. Mukhtiyar and Abdul Kalam @ Sultan is moved by the IO.

It is submitted that many mobile numbers suspected to be used by members of syndicate including both accused persons namely Md. Samiul @ Raj, Md. Mukhtiyar and Abdul Kalam @ Sultan and their other associates were on interception. Monitoring of interceptions revealed that all accused persons were communicating with each and their other associates regarding supplying of drugs in code words. It is further submitted that permission for taking voice samples of accused Md. Samiul @ Raj, Md. Mukhtiyar and Abdul Kalam @ Sultan be granted.

In view of the submissions made on behalf of State, Jail Superintendent, Tihar is directed to produce both accused persons through VC on 02.09.2020 at 11.30 AM. Copy of the order be sent to Jail Superintendent for compliance as well as be sent to accused in jail.

Copy of application be also sent to accused persons in jail.

Order be uploaded on Delhi District Courts website.

(Ajay Kumar Jain)
Special Judge-NDPS
New Delhi/18.08.2020

FIR No. 182/2020
State Vs. Mohd. Iqbal Khan & Anr.
PS Special Cell

18.08.2020

Present: Sh. Ravinder Kumar, Ld. Addl. PP for the State alongwith IO SI Rakesh Kumar through VC.

An application for granting permission for taking voice samples of accused Mohd. Iqbal Khan and Mohd. Ishak is moved by the IO.

It is submitted that many mobile numbers suspected to be used by members of syndicate including both accused persons namely Mohd. Iqbal Khan and Mohd. Ishak and their other associates were on interception. Monitoring of interceptions revealed that all accused persons were communicating with each and their other associates regarding supplying of drugs in code words. It is further submitted that permission for taking voice samples of accused Mohd. Iqbal Khan and Mohd. Ishak be granted.

In view of the submissions made on behalf of State, Jail Superintendent, Tihar is directed to produce both accused persons through VC on 02.09.2020 at 11.30 AM. Copy of the order be sent to Jail Superintendent for compliance as well as be sent to accused in jail.

Copy of application be also sent to accused persons in jail.

Order be uploaded on Delhi District Courts website.

(Ajay Kumar Jain)
Special Judge-NDPS
New Delhi/18.08.2020

NCB Vs. Noorzai Gulamin & Ors.
Case No. SC/57/2020
U/s 8A/21(C)/23(C)/29 NDPS Act

18.08.2020

Present: Sh. Jivesh Kumar Tiwari, Ld. Counsel for applicant/accused
Allah Noor through VC.

Sh. P.C. Aggarwal, SPP for NCB through VC.

Ld. SPP submits that brief facts of case is that on secret information co-accused Noorzai Gulamin was intercepted at IGI Airport and found swallowed 119 capsules which on easing out found to have been containing 770 gm heroin. He disclosed that co-accused Nimatullah Mangal is also reaching, thereafter co-accused Nimatullah Mangal was apprehended at Airport who disclosed that he entered into the business of drug trafficking and made contacts with one person namely Allah Noor pursuant to which accused Hikmatullah Hikmati and Allah Noor were intercepted from Lajpat Nagar at the instance of Nimatullah Mangal. Allah Noor disclosed that recovered 770 gm heroin was to be delivered to him and same to be delivered to other co-accused persons and during investigation it also came on record that co-accused Godday Nmomye, Alex Edetnelson, Collins Nebolinsa Chiwetalu @ Chidy Collins and Chinonso Stanley Okorie @ Obina Oguchukwu Stanley are also part of drug syndicate and 220 gm of cocaine was also recovered from their possession thereby total 770 gm of heroin, 3.4 kg heroin and 220 gm cocaine was recovered. Accused Allah Noor was found the mastermind who used to smuggle the drugs from abroad and distribute it in India to different persons. Ld. SPP submits that the entire drug syndicate is involved and quantity of contraband recovered is commercial in nature therefore, accused is not entitled to be released on bail.

Ld. Counsel for accused Allah Noor submitted that there is nothing recovered from or at the instance of accused. Ld. Counsel submits

that there is no evidence against this accused except the confessional statement u/s 67 NDPS Act. The value of said statement is quite weak. Ld. Counsel further relied upon judgment of *Surender Kumar Khanna Vs. IO DRI 2018(8) SCC 271* and *Mohd. Fasreen Vs. State CrI. Appeal No. 296/2014 dated 04.09.2019* and submitted that as per the mandate of these judgments no conviction is possible merely on the basis of statement u/s 67 NDPS Act. Ld. SPP repelled the arguments that at this stage, these judgments are not of any help to the accused.

Heard. Record perused. Apex Court in case titled *State of Kerala Vs. Rajesh CrI. Appeal No. 154-157/2020 dated 24.01.2020* observed as under:

18. The jurisdiction of the Court to grant bail is circumscribed by the provisions of Section 37 of the NDPS Act. It can be granted in case there are reasonable grounds for believing that accused is not guilty of such offence, and that he is not likely to commit any offence while on bail. It is the mandate of the legislature which is required to be followed. At this juncture, a reference to Section 37 of the Act is apposite. That provision makes the offences under the Act cognizable and nonbailable. It reads thus:

“37. Offences to be cognizable and nonbailable.—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),—

(a) every offence punishable under this Act shall be cognizable;

(b) no person accused of an offence punishable for [offences under section 19 or section 24 or section 27A and also for offences involving commercial quantity] shall be released on bail or on his own bond unless—

(i) the Public Prosecutor has been given an opportunity to oppose the application for such release, and

(ii) where the Public Prosecutor opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

(2) The limitations on granting of bail specified in clause (b) of sub-section (1) are in addition to the limitations under the Code of Criminal Procedure, 1973 (2 of 1974), or any other law for the time being in force on granting of bail.” (emphasis supplied)

19. This Court has laid down broad parameters to be followed while considering the application for bail moved by the accused involved in offences under NDPS Act. In *Union of India Vs. Ram Samujh and Ors.* 1999(9) SCC 429, it has been elaborated as under:

“7. It is to be borne in mind that the aforesaid legislative mandate is required to be adhered to and followed. It should be borne in mind that in a murder case, the accused commits murder of one or two persons, while those persons who are dealing in narcotic drugs are instrumental in causing death or in inflicting deathblow to a number of innocent young victims, who are vulnerable; it causes deleterious effects and a deadly impact on the society; they are a hazard to the society; even if they are released temporarily, in all probability, they would continue their nefarious activities of trafficking and/or dealing in intoxicants clandestinely. Reason may be large stake and illegal profit involved. This Court, dealing with the contention with regard to punishment under the NDPS Act, has succinctly observed about the adverse effect of such activities in *Durand Didier v. Chief Secy., Union Territory of Goa [(1990) 1 SCC 95]* as under:

24. With deep concern, we may point out that the organised activities of the underworld and the clandestine smuggling of narcotic drugs and psychotropic substances into this country and illegal trafficking in such drugs and substances have led to drug addiction among a sizeable section of the public, particularly the adolescents and students of both sexes and the menace has assumed serious and alarming proportions in the recent years. Therefore, in order to effectively control and eradicate this proliferating and booming devastating menace, causing deleterious effects and deadly impact on the society as a whole, Parliament in its wisdom, has made effective provisions by introducing this Act 81 of 1985 specifying mandatory minimum imprisonment and fine.

8. To check the menace of dangerous drugs flooding the market, Parliament has provided that the person accused of offences under the NDPS Act should not be released on bail during trial unless the mandatory conditions provided in Section 37, namely,

(i) there are reasonable grounds for believing that the accused is not guilty of such offence; and

(ii) that he is not likely to commit any offence while on bail are satisfied. The High Court has not given any

justifiable reason for not abiding by the aforesaid mandate while ordering the release of the respondent-accused on bail. Instead of attempting to take a holistic view of the harmful socioeconomic consequences and health hazards which would accompany trafficking illegally in dangerous drugs, the court should implement the law in the spirit with which Parliament, after due deliberation, has amended.”

20. The scheme of Section 37 reveals that the exercise of power to grant bail is not only subject to the limitations contained under Section 439 of the CrPC, but is also subject to the limitation placed by Section 37 which commences with nonobstante clause. *The operative part of the said section is in the negative form prescribing the enlargement of bail to any person accused of commission of an offence under the Act, unless twin conditions are satisfied. The first condition is that the prosecution must be given an opportunity to oppose the application; and the second, is that the Court must be satisfied that there are reasonable grounds for believing that he is not guilty of such offence. If either of these two conditions is not satisfied, the ban for granting bail operates.*

21. The expression “reasonable grounds” means something more than prima facie grounds. *It contemplates substantial probable causes for believing that the accused is not guilty of the alleged offence. The reasonable belief contemplated in the provision requires existence of such facts and circumstances as are sufficient in themselves to justify satisfaction that the accused is not guilty of the alleged offence. In the case on hand, the High Court seems to have completely overlooked the underlying object of Section 37 that in addition to the limitations provided under the CrPC, or any other law for the time being in force, regulating the grant of bail, its liberal approach in the matter of bail under the NDPS Act is indeed uncalled for.*

22. We may further like to observe that the learned Single Judge has failed to record a finding mandated under Section 37 of the NDPS Act which is a sine qua non for granting bail to the accused under the NDPS Act.

23. The submission made by learned counsel for the respondents that in Crime No. 14/2018, the bail has been granted to the other accused persons(A1 to A4), and no steps have been taken by the prosecution to challenge the grant of postarrest bail to the other accused persons, is of no consequence for the reason that the consideration prevailed upon the Court to grant bail to the other accused persons will not absolve the act of the accused respondent(A5) from the rigour of Section 37 of

the NDPS Act.

Accused Noorzai Gulamin was sent with 770 gm of heroin by co-accused Nimatullah Mangal who also reached in the next flight to India and both were apprehended at IGI Airport. Thereafter on the statement of Nimatullah, the accused Hikmatullah and Allah Noor were intercepted and at the instance of Allah Noor, the other co-accused Nigerians were apprehended and commercial quantity of heroin and cocaine was recovered from them. The co-accused as well as accused Allah Noor in their statements u/s 67 NDPS Act admitted their involvement and Allah Noor is found to be mastermind who is smuggling drugs from abroad and distributing in India to different persons. The statement of accused persons u/s 67 NDPS Act are admissible at this stage and could be used for making out prima facie case. The sequence of facts i.e. apprehension of accused and recovery clearly involves the present accused as a mastermind conspirator. Delhi High Court in case titled *S.K. Jain Vs. M.G. Attri Crl. Rev. 518/2007 dated 02.05.2012* held that when there is a recovery of foreign currency from co-accused and the relationship has been admitted, then at the stage of charge, the evidence cannot be dissected. It is well settled that in case of conspiracy if there is reasonable ground to believe that two or more persons have conspired together to commit an offence by virtue of section 10 of Evidence Act, anything said, done or written by one of such person in reference to their common intention, is a relevant fact as against each other believed to be so conspiring.

In present case also, the present accused is found connected being the kingpin and at his instance other accused persons were also apprehended from whom commercial quantity of contraband was recovered. The twin conditions envisaged u/s 37 are required to be satisfied before granting the bail to accused. At this stage, it cannot be held that there are no reasonable grounds exist that accused is not guilty of alleged

offence. The reasonable ground mean something more than prima facie ground. The judgment of Surender Khanna as relied by the Ld. Counsel for accused, is not applicable at this stage. At this stage, it cannot be held that statement u/s 67 NDPS Act cannot be looked to see the prima facie case. At this stage, this court is not supposed to appreciate the probative value of material on record however, only has to see the prima facie case. The recovered contraband is commercial in nature thus there is definite bar u/s 37 NDPS Act over the release of accused on bail however, it cannot be held at this stage there are reasonable ground to believe that accused is not guilty of the offence and is not likely to commit any offence while on bail. Considering the material on record and in view of above discussion, I found no ground to release the applicant/accused Allah Noor on bail. Hence the present application is dismissed.

It is clarified that nothing in this order shall prejudice the case on merits. Application disposed of accordingly.

Copy of the order be given dasti as well as be sent to accused in jail. Order be uploaded on Delhi District Courts website.

(Ajay Kumar Jain)
Special Judge-NDPS
New Delhi/18.08.2020

NCB Vs. Masood Mohammad
Case No. SC/129/2020

18.08.2020

Present: Sh. Rajesh Manchanda, SPP for NCB through VC.
Sh. Rana Kunal, Ld. Counsel for applicant/accused Masood
Mohammad through VC.
Further part arguments heard.
Ld. SPP seeks some time to file additional reply as chargesheet
has already been filed.

Accordingly, list this application for filing of additional reply
and arguments on 24.08.2020.

Order be uploaded on Delhi District Courts website.

(Ajay Kumar Jain)
Special Judge-NDPS
New Delhi/18.08.2020

FIR No. 28/2016
State Vs. Satnam Singh @ Banti
PS Special Cell

18.08.2020

Present: Sh. Ravinder Kumar, Ld. Addl. PP for the State through VC.
Sh. Rajiv Mohan alongwith Sh. Samarth, Ld. Counsels for
accused Satnam Singh @ Banti through VC.

Ld. Counsel submits that this is an application for interim bail
on the ground that condition of accused is not well.

Let a report be called over the medical condition of this
accused from Jail Superintendent.

List this application on 24.08.2020.

Order be uploaded on Delhi District Courts website.

(Ajay Kumar Jain)
Special Judge-NDPS
New Delhi/18.08.2020

NCB Vs. Vivek Kumar
Case No. SC/29/2020

18.08.2020

Present: Sh. P.C. Aggarwal, SPP for NCB through VC.
Sh. Randhir Kumar, ld. Counsel for applicant/accused Vivek Kumar through VC.

Ld. Counsel for accused submits that this is an application seeking bail on the ground that nothing was recovered from the possession of present accused or at his instance. Ld. Counsel further submits that 450 gm of ganja (which falls in small quantity) was recovered from co-accused Chetan and he has already been released on bail by this court and hence, the present accused is also entitled to be released on bail.

Reply filed.

Ld. SPP for NCB has opposed the bail on the ground that offence is serious in nature and investigation is still going on.

Heard. Considering the fact that accused is in JC since 13.08.2020 and no more required for investigation coupled with the fact that co-accused has already been released on bail, accused Vivek Kumar is also admitted to bail on his furnishing personal bond in the sum of Rs. 25,000/- with one surety in the like amount to the satisfaction of concerned Ld. MM/Link MM/Duty MM.

Application disposed of accordingly.

Copy of the order be given dasti as well as be sent to accused in jail.

Order be uploaded on Delhi District Courts website.

(Ajay Kumar Jain)
Special Judge-NDPS
New Delhi/18.08.2020

FIR No. 33/16
PS Crime Branch
State Vs. Ishwar

18.08.2020

Present: Sh. Ravinder Kumar, Ld. Addl. PP for the State through VC.
Sh. M.C. Kashyap, Ld. Counsel for applicant/accused Ishwar
through VC.

Ld. Counsel submitted that this is an application for extension of interim bail on the ground that the condition of accused is not well and also in view of order dated 24.07.2020 of Full Bench of Hon'ble High Court.

Ld. Addl. PP however opposed the bail application.

Heard. Considering the Full Bench order of Hon'ble Delhi High Court dated 24.07.2020 in W.P.(C) 3037/2020 whereby all the accused persons who are on interim bail, their interim bail is automatically extended till 31.08.2020, the interim bail of accused Ishwar is extended till 31.08.2020 on the same terms and conditions. Application disposed of accordingly.

Copy of the order be given dasti. Order be uploaded on Delhi District Courts website.

(Ajay Kumar Jain)
Special Judge-NDPS
New Delhi/18.08.2020

NCB vs. Birpal & ors.
Case No. SC/335/2019

18.08.2020

Present: Sh. Rajesh Manchanda, for SPP for NCB through VC.
Sh. Sumit Sharma, Ld. Counsel for applicant/accused Gaurav Mendiratta through VC.

This is an application for early hearing of regular bail application however Ld. SPP objected over maintainability of present application as accused is on interim bail presently.

Ld. SPP seeks some time to file reply.

List this application for reply and arguments on 27.08.2020.

Order be uploaded on Delhi District Courts website.

(Ajay Kumar Jain)
Special Judge-NDPS
New Delhi/18.08.2020

NCB vs. Collins Okoro
Case No. SC/119/2018

18.08.2020

Present: Sh. Rajesh Manchanda, for SPP for NCB through VC.
Sh. Manish Bhardwaj, Ld. Counsel for applicant/accused
Collins Okoro through VC.
Ld. SPP seeks some time to file reply.
List this application for reply and arguments on 22.08.2020.
Order be uploaded on Delhi District Courts website.

(Ajay Kumar Jain)
Special Judge-NDPS
New Delhi/18.08.2020