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

Judgment reserved on: 28.04.2023
Judgment pronounced on: 25.08.2023

\+ **BAIL APPLN. 2109/2022**

DIXITA GOLWALA ..... Petitioner
Through: Mr Faraz Maqbool, Ms Vismita Diwan and Ms Sana Juneja, Advs.

versus

NARCOTICS CONTROL BUREAU ..... Respondent
Through: Mr Subhash Bansal, Senior Standing Counsel for NCB with Mr Raghav Bansal, Adv.

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

JUDGMENT

: JASMEET SINGH, J

1. This is an application seeking bail for the applicant, Ms. Dixita Golwala (wife of Mr. Krunal Golwala), arraigned as Accused No.10 in SC Case No. VIII/46/DZU/2021 under section 8 (c), 20 (b)(ii)(A), 20(b)(ii)(B), 21(b), 22(c), 23 & 29 of the The Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act").
2. The Applicant was arrested on 25.09.2021 from her residence in Surat, Gujarat and brought to New Delhi.
3. As per the Prosecution, the facts of the case are as follows:
   1) On the basis of information shared by NCB, Kolkata Zonal Unit, Kolkata, a person named SarvothamanGuhan of Delhi was intercepted at IGI Airport and was questioned about the case registered at NCB, KZU, Kolkata. During enquiry, he revealed about narcotic drugs kept in his travelling bag and upon search it resulted in recovery of 30

grams Ganja and 0.45gram tablets of Ecstasy (MDMA), same seized vide Panchnama dated 04.08.2021.

2) During investigations, search at the house of co-accused, Sarvothaman Guhan was conducted and it led to recovery of 1 kg of Ganja and INR Rs 15.5 lakhs which were seized vide Panchnama dated 05.08.2021. He further revealed that he is procuring drugs through Courier which used to be delivered at the address of co-accused, Rahul Mishra.

3) Based upon such information, a search was conducted at the house of co-accused, Rahul Mishra and led to further recovery of 1.05 kgs of Ganja which was seized vide Panchnama dated 05.08.2021 in the presence of independent witnesses.

4) Sarvothaman Guhan during enquiry had also disclosed about his other friend co-accused, Aashray Pandey who collected another parcel of drug from the house of Rahul Mishra and was supposed to handover said parcel to Sarvothaman Guhan at Ambience Mall, Gurgaon. Thereafter, based on the said information, investigations led to co-accused Aashray Pandey who was intercepted at Ambience Mall Gurgaon with a parcel having name of co-accused, Rahul Mishra R/o 306, Ashok Enclave, Sector-34, Faridabad, Haryana 121003, Ph. 9810970898 was mentioned on parcel with slip of DTDC C10403792 attached to it. From the said parcel 410 grams of Ganja was seized from his possession vide Panchnama dated 05.08.2021.

5) SarvothamanGuhan tendered his voluntary statement under section 67 NDPS Act and revealed that he is involved in narcotic drug business and ordered weed of superior quality through his known contact Ms. Tareena Bhatnagar and for this he paid Rs. 6 Lakhs to co-accused, Jasbir Singh. He further revealed that money was paid to Jasbir Singh through bitcoins and he was on Telegram App with a pseudonym “Optimus Prime”. He also revealed that he ordered the drug parcels on

the address of his friend Rahul Mishra and further disclosed his modus operandi of handling said illegal business.

6) The accused persons Sarvothaman Guhan, Rahul Mishra and Aashray Pandey were consequently arrested on 05.08.2021.

7) Co-accused Jasbir Singh tendered his voluntary statement under section 67 NDPS Act on 01.09.2021. Disclosure was made by Jasbir Singh qua drug syndicate operation through Darknet and Orient Express Group on Telegram App. He disclosed names of co-accused Shradha Surana, Parichay Arora, Naman Sharma, Mohd Aslam@Chicko, Raghunath Kumar, being active part of said illegal business of drug trafficking whereby narcotic drugs were procured from different countries and supplied within India.

8) Consequently, the accused Jasbir Singh was arrested and produced on 02.09.2021 before the Special Court.

9) During the course of investigation of Jasbir Singh, his statement dated 12.09.2021revealed co-accused Krunal Golwala's mobile number as 9537387776 and about the pseudonym of *'Phoebe'* being used by accused Dixita Golwala (the Applicant herein), wife of Krunal Golwala.

10) In follow up actions, on 24.09.2021, the investigations were carried out at B-304, Nakshatra, Pal Road, Near LP Savani School, Surat and another address namely at Times Corner, Near Ambrosia Business Hub, Vesu, Surat which was a franchise of Wat-A-Burger.

11) The NCB Team reached the residence premises at B-304, Nakshatra Apartment and upon search it led to recovery of 1 kg 30 grams of Ganja from the residence of Krunal Golwala and the Applicant, in the presence of independent witnesses.

12) Investigation at the Office premises of Krunal Golwala and the Applicant at 418, Times Corner, VIP Road, near SMC Garden, Vesu,

Surat led to recovery of contraband : 955grams of Ganja (imported), 96.6 grams of Charas, 363 Ecstasy Tablets/MDMA(284 grams); 286 LSD blots (5.6 grams) and 171.8 grams Hashish Chocolate from the Office of Krunal Golwala and the Applicant. The seizure proceedings were conducted in presence of independent witnesses and Krunal Golwala and the Applicant vide Panchnama dated 24.09.2021.

13) During investigations, in pursuance of Notice, the Applicant tendered her voluntary statement under section 67 NDPS Act on 24.09.2021 before the I.O., NCB and in presence of Ms. Patel Zenalben, Lady Constable, Gujarat Police. She revealed her involvement in illegal drug business along with other persons and admitted to being a member of the telegram group 'Orient Express' where she met co-accused Mohd Aslam @ Chico who was running the said group. She stated that along with Krunal Golwala sold local drugs and she was also associated with co-accused Jasbir Singh.

14) Co-accused Krunal Golwala also tendered his voluntary statement under section 67 NDPS Act on 24.09.2021 and revealed about his involvement in the said illegal drug business with co-accused Mohd Aslam @ Chico being part of telegram group 'Orient Express' where he was a member as well as a vendor. He also stated that he was associated to Jasbir Singh and was involved in the said drug business along with the Applicant (his wife).

15) Subsequently, vide his statement dated 29.09.2021, Krunal Golwala categorically led to access his Telegram account and revealed about his chats as Krunal@Rolling Paradise with Jasbir Singh@the Optimus Prime showing as a Deleted account and explained all the chats within his knowledge. NCB states that the facts revealed in his statement stand corroborated with the Chats produced during investigation by Krunal Golwala. The revelation of incriminating material about his

chats with Jasbir Singh provided the relevant contents therefrom being part of telegram group Orient Express, are relevant facts for consideration which established the conspiracy of accused persons in commission of offences under the NDPS Act.

16) During course of investigation, Krunal Golwala and the Applicant disclosed the names of Mohd Aslam @Chico and Aditya Reddy, who were also their associates in the said drug syndicate and regularly purchasing the drug and selling the drugs to other customers.

17) On the basis of revelations made by Krunal Golwala, during follow-up investigations, notice under section 67 NDPS Act was given to Mohd. Aslam @Chico and Aditya Reddy on 29.09.2021.Accused Krunal Golwala stated in his statement stated that Aditya Reddy ordered 350 LSD blots from him and he was having other orders pending with him and accordingly he purchased 1350 LSD blots from abroad. A sum of Rs. 32,500/- was paid by Aditya Reddy and the same was deposited in cash in the bank account of Mr. Davinder Kumar Mandal on 12.08.2021, who is the employee of accused Krunal Golwala and he was using the said account for the sale and purchase of illicit contraband. He also identified and verified the entry in the said account to show the said amount of Rs. 32,500/- was paid by Aditya Reddy for the purchase of 350 LSD Blots. He further stated that he sent 350 LSD Blots to Aditya Reddy in the month of September i.e. prior to their interception by NCB.

18) Aditya Reddy gave his voluntary statement under section 67 of NDPS Act on 1.10.2021; wherein he revealed that he was a member of telegram group Orient Express with a fake name i.e. “ONLY LOVE” and used to order for LSD and hydro Ganja for his personal consumption and for further sale. He further revealed that Krunal Golwala used to supply him LSD and he recently received 350 blots

of LSD from Krunal Golwala, he further revealed in his voluntary statement that he destroyed all 350 blots of LSD, cleaned his mobile and deleted his BTC account when he got to know that the members of Orient Express were being arrested.

19) In pursuance to statements of the accused persons, it surfaced that the co-accused Mohd. Aslam @ Chico had formed the group Orient express and was involved in trafficking of all kinds of drugs. Mohd. Aslam @Chico tendered his voluntary statement under section 67 NDPS Act on 30.09.2021. He has admitted his involvement in the said trafficking. He stated about purchasing drugs from Fluffy and Phoebe i.e., Krunal and the Applicant respectively, amongst other accused persons.

20) On 25.09.2021, the Applicant was arrested. On 04.10.2021, the Applicant was remanded to judicial custody.

21) On 08.04.2022, the Applicant retracted her statement under section 67 NDPS.

22) The learned Trial Court dismissed the Applicant's application seeking bail vide order dated 06.06.2022.

4. Mr. Maqbool, learned counsel for the Applicant has made the following submissions:

A. He states that the sole reason to arraign the Applicant as an Accused are alleged disclosure statements which are inadmissible in terms of ***Tofan Singh v. State of T.N.****(2021) 4 SCC 1* wherein the relevant para reads as under:

"155. Thus, to arrive at the conclusion that a confessional statement made before an officer designated under Section 42 or Section 53 can be the basis to convict a person under the NDPS Act, without any non obstante clause doing away with

Section 25 of the Evidence Act, and without any safeguards, would be a direct infringement of the constitutional guarantees contained in Articles 14, 20(3) and 21 of the Constitution of India."

.....

158. We answer the reference by stating:

158.1. That the officers who are invested with powers under Section 53 of the NDPS Act are "police officers" within the meaning of Section 25 of the Evidence Act, as a result of which any confessional statement made to them would be barred under the provisions of Section 25 of the Evidence Act, and cannot be taken into account in order to convict an accused under the NDPS Act.

158.2. That a statement recorded under Section 67 of the NDPS Act cannot be used as a confessional statement in the trial of an offence under the NDPS Act."

B. He further states that Section 37 of the NDPS Act has no applicability qua the Applicant and this Court ought to consider the present bail Application without applying the rigors thereof. Notwithstanding and without prejudice to this, even if Section 37 is to be applied, it is settled law that the embargo contained therein is not absolute and that Courts can grant bail even in cases involving alleged recovery of "commercial quantity" of contraband. He places reliance on ***Parma Ram v. State of H.P.*** reported as *2022 SCC OnLine HP 173* wherein it was held as under:

"9. True, it is that keeping in view the commercial quantity of contraband recovered in the case at hand, rigours of S.37 of

the Act are attracted but that does not mean that this court is estopped from enlarging the bail petitioner on bail in the case at hand….."

C. He contends that reliance on Sections 35 and 54 of the NDPS Act both by the Ld. Trial Court and by NCB is wholly misplaced, both on account of such presumptions having no applicability at this present stage and because the initial burden to prove its case is always on the Prosecution and the Prosecution cannot rely merely on statutory presumptions.

D. He states that the Applicant is a woman which has been held to be relevant consideration for bail even in NDPS cases involving commercial quantity. Reliance is placed on ***Sinu Abraham v. State*** reported as 2020 SCC OnLine Kar 2091 wherein it has been held as under:

"6. Of course a plain reading of the first information report gives an impression that the police might have recovered narcotic substances from the possession of the petitioner. If the photographs produced by the petitioner are seen, it may be said that the police entered the apartment where the petitioner is living on the previous day i.e., 26.08.2020 at about 4.25 p.m. The petitioner being escorted by the police can be clearly seen in the photographs. Therefore the very recovery becomes doubtful. Moreover the petitioner is a woman. Hence I don't think that bail can be denied."

E. The Respondent's case against the Applicant pertains to alleged recovery of commercial quantity of contraband from her residential and office premises and her involvement in a telegram group

‘Orient Express’ for dealing with such contraband using a fake name ‘Phoebe’.

F. Regarding the recoveries, the learned counsel has argued that a perusal of the panchnama recording the recovery shows that the said recovery is attributable exclusively to the Applicant’s husband. The contraband of 1.03 kg of Ganja recovered from the shared residence of the Golwala’s, is at best intermediate quantity. It may even be considered as small quantity since it was admittedly weighed with the "Polythene Bag". Therefore, even if this recovery is held against the Applicant, rigors of section 37 are not applicable.

G. He states that the recovery is from separate offices. NCB's own material shows that there were two separate offices at different floors; separated by a staircase. It is submitted that one of these were exclusively used by the Applicant's husband. He states, without prejudice, all recoveries made at these office premises are attributable to the Applicant’s husband which is clear from NCB's own panchnamas recording details thereof.

H. The learned counsel states that the respondent has not given any explanation for the delay in presenting the forensic analysis of the Applicant’s mobile phone which was placed on record on 21.12.2022 when the records were seized in September of 2021.

I. With regards to data from the applicant’s mobile phone, it is submitted that all conversations pertain to 'weed' or 'hashish' or chocolates made therefrom and their recovery is in 'small' or 'intermediate' quantity. Hence the rigors of S.37 do not apply. The only commercial quantity allegedly recovered in this case is of LSD blots and Ecstasy /MDMA which is not referred to in the chats at all.

J. Furthermore, no portion of these chats are linked to the aforementioned recoveries of the same type of contraband(s) from the home/office of the Applicant. Therefore, it is submitted that the said chats are entirely irrelevant.

K. If anything, these chats at best qualify as character evidence which has no value as per section 53 and 54 of the Indian Evidence Act which provides that in criminal proceedings, previous bad character is irrelevant, until evidence is given that the concerned Accused has good character. The learned counsel states that any reliance on presumptions under Section 35 and 54 of NDPS Act is completely misplaced as it is settled law that the initial burden to prove its case is always on the Prosecution, which it has failed to discharge in the present case.

L. The chats reveal that they are neither with co-accused persons, which is the bedrock/ foundation of NCB's alleged case, nor with the world at large. The chats contain conversations only with two people i.e., a person named Venktesh Shrivastava and one other person (no name, only a number). At best, these chats show the Applicant to be a small-time consumer of contraband that was recovered in small or intermediate quantity in the present case and that she distributed it onwards to a friend.

M. Lastly, he states that several co-accused persons have been granted bail by this Hon’ble Court including Jasbir Singh who named the Applicant herein. Others include Rahul Mishra, Aashray Pandey, Naman Sharma, Vishal Chaturvedi and Devesh Vasa.

5. *Per contra*, Mr. Bansal, learned Senior Standing Counsel for NCB has argued the following:

A. He states that the Trial Court vide order dated 06.06.2022 dismissing the bail application of the Applicant is absolutely justified. The Ld. Special Judge has rightly considered the entire facts on record and found that there is recovery of commercial quantity of contraband from the residence and office of Krunal Golwala and the Applicant, therefore, there is definite presumption under Section 35 and 54 NDPS Act against the Applicant. The Applicant and her husband, Krunal Golwala are found to be in joint possession of the contraband and the investigation has established the conspiracy between the accused persons admittedly running the said illegal drug business.

B. He states that the commission of offences by the Applicant under NDPS Act in conspiracy with the other accused persons is corroborated with the incriminating material seized on record which shows trafficking / transportation / shipping / dealings in Narcotic Drugs. In view of the same, the admitted Statements under section 27 of the Indian Evidence Act cannot be ignored at this stage. Thus, the Bail application of Applicant is liable to be rejected.

C. He states that the mandate and rigours of section 37 were interpreted by the Hon'ble Supreme Court in *State of Kerala Etc. v. Rajesh Etc*. (2020 SCC Online SC 81). Relying on the same, he contends that the bail application of the Applicant is strongly opposed.

D. He states that reliance upon Supreme Court judgment of *Tofan Singh Vs. State of Tamil Nadu (Dated 29.10.2020)*will not be applicable in the facts of the present case. He states that even though confession in section 67 statement may not be admissible, however, statement leading to discovery of facts is admissible as per section 27 of Indian Evidence Act.

E. With regards to retraction, it is contended that the Applicant's retraction dated 08.04.2022 is non-sustainable in the eyes of law. He states that admittedly the Applicant and Krunal Golwala were present in Surat during the course of search and seizure proceedings conducted at their residence and office premises on 24.09.2021. The Applicant was arrested on 25.09.2021 and medically examined and produced before the Addl. Magistrate in Surat on 25.09.2021. Thus, the retraction statement stating, "*I was called by NCB to their Office on two consecutive days i.e. 24.09.2021 & 25.09.2021. During these visits*,....." it is factually incorrect and erroneous. Since all the proceedings were carried-out at Surat in the presence of Gujarat Police, the retraction statement of the Applicant is falsely drafted under advice and is non-sustainable.

F. He states that the mobile data extraction report recovered from the Applicant, accompanied with certificate under section 65B Indian Evidence Act, 1972, forms part of documents on record. He states that Section 8 of the Evidence Act makes the conduct of the Applicant relevant with respect to her involvement in drug-trafficking activities. The said conduct is established from the electronic evidence during investigation i.e., the mobile data extraction Report.

G. He submits that the entire Panchnama has to be read as a whole and therefore, recoveries from the residence and office are at the instance of both, the Applicant and co-accused Krunal Golwala and not just the latter as argued by the learned counsel for the Applicant.

H. It is submitted that the incriminating material seized on record corroborates with the statements of accused persons which were voluntarily tendered and admitted during investigation. He further states that the *modus operandi* for drug - trafficking was marketed

on social media platforms and then delivered to the customers/consumers through parcels.

I. The learned Senior Standing Counsel states that the Applicant is involved in illicit drug – trafficking of commercial quantity of contraband and as such there is an embargo under section 37 of NDPS Act for grant of bail to the Applicant.

J. He states that the Applicant has no case on merits and the grounds raised in the present application are fallacious. The allegations in the bail application against NCB's search and seizure is highly condemnable, as the said proceedings were carried out in the presence of independent witnesses. The Applicant's statement was in the presence of a lady constable of Gujarat Police. Admittedly, there is recovery of commercial quantity of contraband from the conscious possession of the Applicant and her husband Krunal Golwala, therefore, the present bail application is liable to be dismissed.

K. Lastly, he submits that as per section 37(1)(b)(ii) NDPS there are no reasonable grounds for believing that the Applicant is prima-facie not guilty of the said offence, therefore, the Applicant's bail is liable to be rejected.

ANALYSIS

6. I have heard learned counsels for the parties.

RECOVERY OF CONTRABAND

7. Apropos the recoveries in the present case, the contraband recovered from the Applicant's residence i.e., the shared home of the Applicant and her husband/co-accused, Krunal Golwala, is *Ganja* weighing 1 kg 30 grams

which is an intermediate quantity with 1 kg being small quantity and 20 kgs being commercial quantity.

8. The learned counsel for the Applicant submits that the recovery from the residence was at the instance of co-accused Krunal Golwala (Applicant's husband) and not the Applicant. He has emphatically contended that right from the entry in the bedroom, reaching the exact spot where the contraband was kept, taking out the contraband and confirmation thereof was only at the instance of the co-accused, Krunal Golwala and not the Applicant.

9. The relevant extract of the complaint relied upon by the learned counsel for the Applicant reads as under:

> "*Krunal took the team to the right side bedroom, where a bag was lying on the left side of the bed of description orange and black type colour identified as American Tourister Krunal opened the bag and in the said bag a transparent polythene containing greenish substance was lying. Krunal took out that bag at around 1040 hours the substance in the bag was greenish colour and was clearly identified as ganja upon further asking Krunal and Dixita both confirmed it to be ganja. The ganja was then weighed and it came out to be 1 kg 30 gram including the transparent polythene bag.*"

10. I am unable to agree with the argument put forth by the learned counsel for the Applicant. The recovery of *ganja* from the bedroom (i.e. residential premises) of the Applicant is attributable to both, the Applicant and the husband/co-accused, Krunal Golwala.

11. It is pertinent to note that bedroom is a private space shared by a husband and wife. Recovery of *Ganja* from the bedroom may be at the instance of the husband of the Applicant but the fact remains that it was recovered

from the joint space of the Applicant and her husband. It is nowhere stated or argued that the Applicant and her husband were living in separate rooms or had strained relationships. The recovery was also not from a person but from a joint space and hence, to state that the recovery of 1.03 kgs made from the bedroom cannot be attributable to the Applicant would be a wrong assertion.

12. In the instant case, both, the Applicant and husband/co-accused, Krunal Golwala are, admittedly, consumers of narcotic substances. Being husband and wife, they share a special relationship, therefore, it is trite to infer that the Applicant as well as her husband/co-accused, Krunal Golwala were aware of the contraband kept in their *bedroom* at their residence and were in conscious possession of the same.

13. The Apex Court in ***Union of India v. Mohd. Nawaz Khan*, (2021) 10 SCC 100** observed as under:

> ***"26.*** *What amounts to "conscious possession" was also considered in Dharampal Singh v. State of Punjab [Dharampal Singh v. State of Punjab, (2010) 9 SCC 608 : (2010) 3 SCC (Cri) 1431] , where it was held that the knowledge of possession of contraband has to be gleaned from the facts and circumstances of a case. The standard of conscious possession would be different in case of a public transport vehicle with several persons as opposed to a private vehicle with a few persons known to one another. In Mohan Lal v. State of Rajasthan [Mohan Lal v. State of Rajasthan, (2015) 6 SCC 222 : (2015) 3 SCC (Cri) 881] , this Court also observed that the term "possession" could mean physical possession with animus; custody over the prohibited substances with animus; exercise of dominion and control as a result of concealment; or*

personal knowledge as to the existence of the contraband and the intention based on this knowledge."

14. The bedroom being a shared private space of the Applicant and her husband where the Applicant can exercise control and dominion leads to the conclusion that the recovery from the residence is at the instance of both, the Applicant as well as husband/co-accused, Krunal Golwala.
15. Having said that, the recovery of *ganja* weighing 1 kg 30 grams being intermediate quantity and not commercial quantity does not attract the rigors of section 37 NDPS Act.
16. Regarding the recovery from the office premises, the complaint seems to suggest that the office is separated by a staircase and is on two different floors, one belonging to the husband/co-accused, Krunal Golwala and one to the Applicant.
17. The argument of the learned counsel for the Applicant stating that the recovery from the office premises was at the instance of co-accused Krunal Golwala, the Applicant's husband and not at the instance of the Applicant is well-founded.
18. The complaint filed by NCB shows that the contraband was recovered at the instance of co-accused, Krunal Golwala and not the Applicant. The relevant extract of the complaint is reproduced below:

"*In continuation to the search, seizure proceedings in the crime No. 46/21 after completing the proceedings at the Nakshatra Apartment complex the NCB Team along with independent witnesses, Krunal Golwal, Dixita Golwal and Krunal's Father moved to 418, Times Corner, VIP Road Near SMC Garden, Vesu. Where the Office of Krunal and Dixit was located for further search and seizure, as it was revealed by Krunal and Dixita that some contraband are kept in their Office. The team reached the place at about 1530 hours.*

Krunal and Dixita opened their Office, on opening the office there was a power switch on the right side which was switched on by Krunal ***then there were stairs which led to the office of Krunal. On left hand side he informed that, this is his work place from where he manages his business of running the Wat a burger.*** *On the right side was another room where some stock was lying which Krunal informed is related to wat a burger shop.* ***Then upon asking by NCB team Krunal informed that all the Drugs are kept in his Office. Krunal took out the contraband from his office premises. The details of same are as follows.*** *A plastic container was containing greenish substance which when weighed was found to be 955 grams. A small portion of same was then tested by the FSL Officer and in preliminary testing found to be having constituents of Cannabis afterwards two samples of 50 grams each were drawn and put into plastic boxes. The samples and the remaining bulk were packed in a markin cloth and sealed with paper slip bearing signatures of Independent witnesses, Krunal, Dixita and Sh. J.P. Singh, IO. The pulinda Bulk was marked as T and samples were marked as T-1, T-2. A foil was handed over by Krunal to Sh. J.P. Singh.IO was opened which was found containing 286 Blots (22X 13) which was when weighed was found to be 5.6 grams which suggested for LSD for which one blot was used for testing by the FSL Officer.*

.....

Another pack was handed over by Krunal and Dixita and was found in the shape of Chocolate. The weight of the same was taken and found to be 202.6 grams with its container which was then removed and left with wrappers only which were 8 in Nos. and then weighed

which was 171.8 grams, when tested by the FSL Officer it indicated to be suspected Narcotics Material." (emphasis supplied)

19. The office space is separated by a staircase as the Applicant and husband/co-accused Krunal Golwala have their office on separate floors. I am of the view that the office premises is not a shared space as there is a separation created by a staircase (as recorded in the panchnama by the NCB that the stairs led to the office of Krunal Golwala).
20. The office being a place where parties carry out their work and responsibilities where the upper floor was under the control of the husband of the Applicant shows that only Krunal Golwala had control and dominion of the premises from where the contraband was recovered. Thus, the Applicant cannot be stated to be in conscious possession of the contraband recovered from the exclusive office premises of co-accused/husband, Krunal Golwala.
21. Hence, I am of the opinion that recoveries from the office premises cannot be attributable to the Applicant as the contraband was recovered at the instance of co-accused/husband, Krunal Golwala from his exclusive office space.
22. It is stated by Mr Bansal, learned Senior Standing Counsel for NCB, that the panchnama needs to be read as a whole as it suggests that the office is a shared space. I am unable to agree with the said contention for the reason that the complaint states as under:

"...Where the Office of Krunal and Dixit was located for further search and seizure, as it was revealed by Krunal and Dixita that some contraband are kept in their Office. The team reached the place at about 1530 hours. Krunal and Dixita opened their Office, on opening the office there was a power switch on the right side

which was switched on by Krunal then there were stairs which led to the office of Krunal. ***On left hand side he informed that, this is his work place from where he manages his business of running the Wat a burger.*** *On the right side was another room where some stock was lying which Krunal informed is related to wat a burger shop.* ***Then upon asking by NCB team Krunal informed that all the Drugs are kept in his Office. Krunal took out the contraband from his office premises.*** *The details of same are as follows....” (emphasis supplied)*

23. Though the complaint records that Krunal Golwala and the Applicant opened ‘their’ office, the subsequent lines in the complaint state that it was only Krunal Golwala who informed that “*all the Drugs are kept in* ***his*** *Office.”* As already elucidated above, the office is not a shared space as Krunal Golwala has exclusive office space from where contraband was recovered. The Respondent has not been able to justify how the office is a shared space when the complaint categorically records that “*Krunal took out the contraband from* ***his*** *office premises.*”
24. A perusal of the Complaint further shows that the Applicant merely identified the contraband and her signatures were taken during the time of sample collection. Identification of contraband does not suggest that the office from where the contraband was recovered is a shared space.
25. As per *Mohd. Nawaz Khan (supra),* it cannot be said that custody of contraband recovered from the office of Krunal Golwala was within personal knowledge of the Applicant or were in her control and dominion.
26. However, recovery of Hashish Chocolate weighing 171.8 grams being intermediate quantity is at the instance of both, the Applicant and her husband/co-accused, Krunal Golwala as the complaint records “*Another*

pack was handed over by Krunal and Dixita and was found in the shape of Chocolate."

27. At the stage of deciding the present bail application, the aforesaid factors raise suspicion that the office was separate and the Applicant was not in conscious possession of contraband recovered from the office of co-accused/husband, Krunal Golwala except for intermediate quantity of 171.8 grams of Hashish Chocolate.

WHETHER SECTION 37 NDPSIS APPLICABLE?

28. The arrest memo *qua* the Applicant is under sections 8, 20, 22, 23, 29 NDPS and the complaint is filed by Respondent – NCB is under sections 8 (c), 20 (b) (ii) (A), 20 (b) (ii) (B), 21 (b), 22 (c), 23 and 29 NDPS. Since sections 19, 24 and 27A NDPS have not been invoked, this Court is only required to see the applicability of section 37 of the NDPS Act vis-à-vis possession of commercial quantity of contraband with the Applicant, if any.
29. The recovery from the residence of the Applicant is *Ganja* weighing 1 kg 30 grams which is intermediate quantity.
30. The recovery from the office premises at 418, Times Corner, VIP Road, near SMC Garden, Vesu, Suratis as under:

- Ganja: 955 grams
- Charas: 96.6 grams
- MDMA/Ecstasy: 284 grams
- LSD: 5.6 grams
- Hashish Chocolate: 171.8 grams

31. Out of the recovery made from the office, 284 grams of MDMA/Ecstasy and 5.6 grams of LSD is commercial in nature. The recovery of 955 grams

Ganja and 171.8 grams Hashish Chocolate is intermediate quantity and 96.6 grams *Charas* is small quantity.

32. I have already held above that the recovery from the office premises of Krunal Golwala cannot be attributable to the Applicant (apart from recovery of 171.8 grams Hashish Chocolate). Hence, the commercial quantity of contraband was neither recovered at the instance of the Applicant nor was in her conscious possession.

33. Since no commercial quantity is recovered from the Applicant or at her instance, the rigors of section 37 NDPS Act will not apply to these recoveries.

34. It is also noted that the recovery of commercial quantity of contraband from the office premises being 5.6 grams LSD and 284 grams MDMA/Ecstasy find no mention in the forensic mobile chats placed on record by the Respondent – NCB. Therefore, the Respondent – NCB's argument contending that the Applicant was dealing with commercial quantity of contraband is not made out.

SECTION 67 STATEMENT

35. According to the Apex Court in ***Tofan Singh*** *(supra),* statements under section 67 NDPS are inadmissible.

36. I have already held in ***Jasbir Singh v Narcotics Control Bureau*** BAIL APPLN. 1120/2022 (2023/DHC/000261):

> *"63. As statements recorded under Section 67 NDPS Act are inadmissible being hit by Section 25 IEA, the only way to make any part of such statements admissible, is by way of Section 27 IEA which creates an exception and allows only such part of a confessional statement, being information leading to discovery of some fact not*

previously in the knowledge of the police officer. In the present case, none of the statements of the Applicant lead to any discovery of a 'fact', and hence, the statutory bar to their admissibility and reliability is attracted."

37. In the present case, the NCB has not shown the discovery of fact pursuant to section 67 statement of the Applicant. Para 76 of the Complaint (Annexure P-1) states as under:

"76.That consequent to the recoveries made at Surat, Gujrat in the NCB crime case VIII/46/DZU/2021 registered at NCB Delhi and on the basis of voluntary statement of Dixita Golwala was arrested by Sh. J.P. Singh, IO on 25.09.2021at 0930 hours u/s 8, 20, 22, 23 & 29 of NDPS Act."

38. A reading of the above complaint seems to suggest that recovery of contraband was made prior to recording of statement under section 67 NDPS Act. In addition, there is no new fact discovered consequent to Applicant's statement under section 67 NDPS Act. Additionally, in the present case, the Applicant has retracted her statements made under section 67 NDPS Act.

39. It is alleged by the Respondent that the pseudonym 'Phoebe' was the name of the Applicant and she was active on telegram group 'Orient Express' in buying and selling of narcotic substances. There is no material presented by the NCB to show that 'Phoebe' is identifiable to the Applicant except section 67 statement of the Applicant and other accused persons. As already held, the same cannot be relied upon in view of the judgment of *Tofan Singh (supra).* Therefore, no reliance can be placed on section 67 statement of the Applicant. At best, assuming the argument of the Respondent – NCB

that section 67 statements of other co-accused persons led to discovery of fact that Applicant was using pseudonym 'Phoebe' in 'Orient Express' group on telegram, no evidence regarding the same has been produced before this court. Even the mobile chats annexed are not of the 'Orient Express' Telegram group.

FORENSIC MOBILE EXTRACTION REPORT

40. The NCB has relied on the forensic report of the mobile chats of the Applicant contending that the Applicant is a drug-dealer involved in illicit trafficking of narcotic substances.
41. Regarding the forensic mobile extraction report of the Applicant, the chats pertain to conversations about weed, hashish and chocolates made therefrom.
42. As per the complaint, a pack was handed over by Krunal Golwala and the Applicant in the shape of chocolate. The same when weighed was 202.6 grams with container and weighed 171.8 grams with only wrapper sans the container. The chocolate was alleged to be containing narcotic material. The complaint does not specify the narcotic material but presumably suggests to contain Hashish. Assuming the same to be correct, the quantity recovered was 171.8 grams which is an intermediate quantity and does not attract rigors of section 37 NDPS Act.
43. Below is an extract of the mobile data extraction report placed on record by Respondent – NCB:

CNyc54cG (+919198092769)

Colive darwin
Survey No, 24 & 20, 5th Main Rd, near Anumon Temple, Abbaappa Layout, Stage 2, BTM Layout, Bengaluru, Karnataka 560076

1:30:28 AM IST

COyc54cG (+919198092769)

Yeh Dixita iss address pr deliver krwana hai 1500 ka stuff

1:30:44 AM IST

CP+c54cG (+919198092769)

By 5th August

1:31:03 AM IST

ok done

1:31:32 AM IST ✓✓

Will send by 2 nd august

1:31:51 AM IST ✓✓

CLqd54cG (+919198092769)

Sure aure

1:32:02 AM IST

CMid54cG (+919198092769)

Aap 5th tak bas aaram se pahocha do

1:32:16 AM IST

Clif54cG (+919198092769)

Will the delivery guy call before coming to the house ?

1:35:28 AM IST

CJGf54cG (+919198092769)

How's the process to pickup

1:35:37 AM IST

Yes he will call. I will send tracking number so u can check

1:37:28 AM IST ✓✓

Mostly 90% delivery guy calls

1:37:56 AM IST ✓✓

CL2g54cG (+919198092769)

Sure thanks

1:38:29 AM IST

CMig54cG (+919198092769)

Bas best rehta hai ghar ke saamne hi deliver ho jae to

1:38:40 AM IST

28/07/21

CPvxhYgG (+919198092769)

Dixita bangalore me pahoch jaega na stuff 5th aug ko ?

9:04:19 PM IST

Yes

10:10:16 PM IST ✓✓

CJKRhogG (+919198092769)

thanks

10:10:50 PM IST

CJeRhogG (+919198092769)

aap hi bata dena jab payment krni ho

10:10:55 PM IST

Yes

10:11:00 PM IST ✓✓

01/08/21

Hello

12:25:37 PM IST ✓✓

Sorry we are out of stock

12:25:46 PM IST ✓✓

Now

12:25:50 PM IST ✓✓

CLOVmYgG (+919198092769)

We want till 5th

12:48:11 PM IST

CLyVmYgG (+919198092769)

Aap bas bhijwa do tab tak

12:48:20 PM IST

01/08/21

But nai hai
12:48:34 PM IST

Kuch bhi
12:48:40 PM IST

CNeVmYgG (+919198092769)

Kab tak wapas aaega ?
12:48:47 PM IST

Abhi to ye week me dispatch hoga vahaan se
12:49:14 PM IST

CISWmYgG (+919198092769)

7th tak ho jaega deliver ?
12:49:32 PM IST

CMKWmYgG (+919198092769)

Dixita we had a deal but
12:50:34 PM IST

CMaWmYgG (+919198092769)

Thoda kuch karo yar
12:50:38 PM IST

Haa karti hu
12:51:06 PM IST

Mera personal stuff hai m sending
12:51:15 PM IST

CPaWmYgG (+919198092769)

Manipuri mango has been amazing
12:51:26 PM IST

CI+XmYgG (+919198092769)

Gurgaon ki junta ne itna hype kr dia hai ki abb bangalore me chull mach gai hai😂
12:51:51 PM IST

CKGXmYgG (+919198092769)

Thoda awkward ho jaega agar waha nhi pahocha to
12:52:09 PM IST

168.75 KB 12:53:30 PM IST

This is MP land race
12:54:02 PM IST

M not giving this to anybody this is just i kept for myself. Sending you to experience MP
12:55:27 PM IST

CKeamYgG (+919198092769)

It is better than Manipuri ?
12:58:39 PM IST

Its sativa
9:37:42 PM IST

Manipuri is indica
9:37:48 PM IST

02/08/21

CNL0m4gG (+919198092769)

Send me that then
1:17:30 AM IST

COX0m4gG (+919198092769)

I would love to see how this one is
1:17:49 AM IST

Gussfring@apl
4:00:53 PM IST

1500
4:00:58 PM IST ✓✓

This is the address right?
4:20:34 PM IST ✓✓

CP+bn4gG (+919198092769)

Yes
4:20:39 PM IST

CIOcn4gG (+919198092769)

I want it by 5th
4:20:43 PM IST

CJWcn4gG (+919198092769)

Mai abhi bahar hu mai 1 hour ke andar payment krta hu
4:21:01 PM IST

CKGcn4gG (+919198092769)

Can you tell the difference a bit
4:21:13 PM IST

https://www.healthline.com/health/sativa-vs-indica
4:22:26 PM IST ✓✓

Indica is a body high
4:22:41 PM IST ✓✓

⊘ *You deleted this message*
4:22:56 PM IST

Sativa is mental high
4:23:25 PM IST ✓✓

CMOdn4gG (+919198092769)

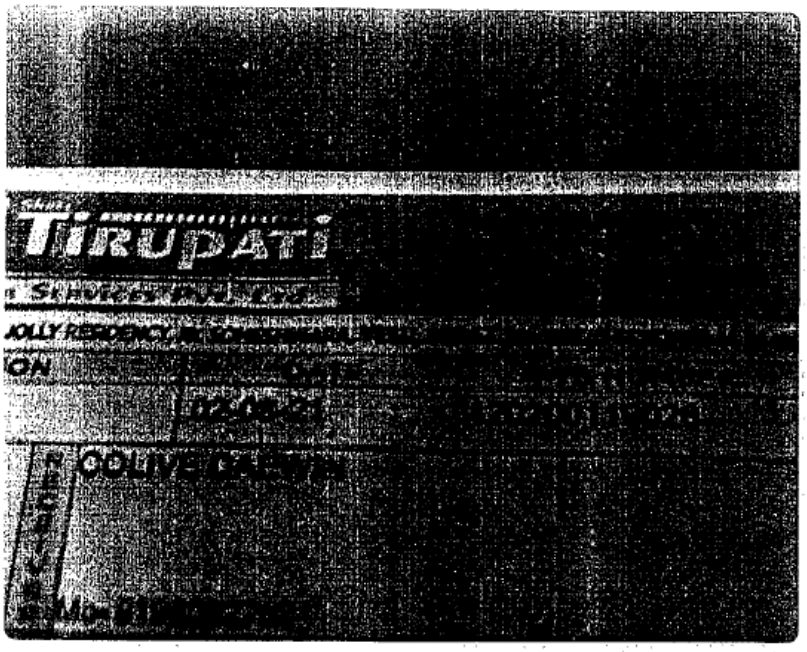
Okay done
4:23:55 PM IST

Dont read it just try and feel the difference
4:24:24 PM IST ✓✓

I am sending you 2 hash and weed liquor chocolates
4:25:13 PM IST ✓✓

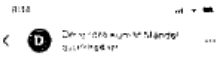
Try it for different experience
4:25:23 PM IST ✓✓

02/08/21



83.91 KB 7:43:59 PM IST

CMWJoIgG (+919198092769)



1,500

Pay Request

17.35 KB 8:14:21 PM IST

CNuJoIgG (+919198092769)

Payment done please check

8:14:43 PM IST

Manipuri in stock

158.01 KB 4:01:53 PM IST ✓✓

CLS4mlkG (+919198092769)

Thanks a ton Dixita

4:02:20 PM IST

How was MP?

4:02:45 PM IST ✓✓

CJ6lmYkG (+919198092769)

Maybe the stuff was not prepared well by us

7:54:30 PM IST

CLelmYkG (+919198092769)

Plus we worked like crazy so didnt get the time to smoke up

7:54:55 PM IST

Lol, u are too busy that you dont get time to smoke up

8:11:26 PM IST ✓✓

CP+zmYkG (+919198092769)

hahahaha

8:25:59 PM IST

Messages to this chat and calls are now secured with end-to-end encryption.

CLyirloG (+918447586257)

Aapka number Rajat ne dia

4:49:24 PM IST

CM6irloG (+918447586257)

This guy

87.71 KB 4:49:42 PM IST

CISjrloG (+918447586257)

He is a close friend of mine

4:50:36 PM IST

CI6jrloG (+918447586257)

He told me about you

4:50:46 PM IST

CMmjrloG (+918447586257)

Regarding strains and hash

4:51:45 PM IST

COKjrloG (+918447586257)

That's why i was trying to call you

4:52:10 PM IST

CLeJ84kG (+918979803440)

Hi Dixita venktesh gave me your number

8:31:11 PM IST

Hello

9:29:45 PM IST ✓✓

CKSI84kG (+918979803440)

I wanted to score stuff, do you have some

9:30:36 PM IST

Not having any landrace

9:31:33 PM IST ✓✓

I have strains now

9:31:43 PM IST ✓✓

CKCm84kG (+918979803440)

Didn't get you

9:32:40 PM IST

CLOm84kG (+918979803440)

Can you tel me type and price

9:32:59 PM IST

CM/U84kG (+918979803440)

??

11:11:35 PM IST

16/09/21

Nothing available now

3:59:00 PM IST ✓✓

Just hybrid strain

3:59:06 PM IST ✓✓

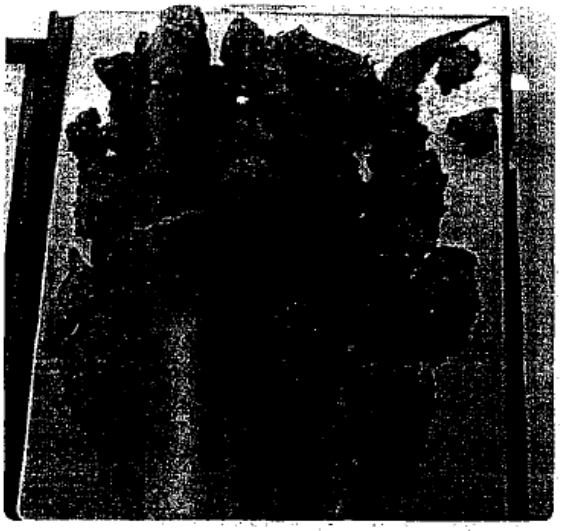
Imported

3:59:15 PM IST ✓✓

CL/SjloG (+918979803440)

Price

4:53:43 PM IST



Gelato cookies , 22% THC
183.30 KB 7:59:27 PM IST

1 gm 2500
7:59:38 PM IST

7gm 16k
7:59:47 PM IST

https://www.hytiva.com/strains/hybrid/gelato-cookies
8:01:30 PM IST

CIGtjYoG (+918979803440)

I will go with 1 gm first
8:06:49 PM IST

CKaujYoG (+918979803440)

Rajat
A1201 Atrium tower, Ramprastha city
GURUGRAM, HARYANA 122001
India
Phone number: 9045012061
8:09:34 PM IST

Sure
8:11:10 PM IST

17/09/21

CJrkkIoG (+918979803440)

Have you couriered and how to make payment
11:43:46 AM IST

Did you gave my number to anyone?
11:50:31 AM IST ✓✓

I will let you know
11:51:35 AM IST ✓✓

CPbokloG (+918979803440)

Nopp
11:53:50 AM IST

COPRkooG (+918979803440)

Why what happened
8:10:35 PM IST

CPPRkooG (+918979803440)

My name is Rajat btw
8:10:51 PM IST

Already couriered
8:11:13 PM IST ✓✓

CKLSkooG (+918979803440)

Ohh great can you share tracking details
8:11:38 PM IST

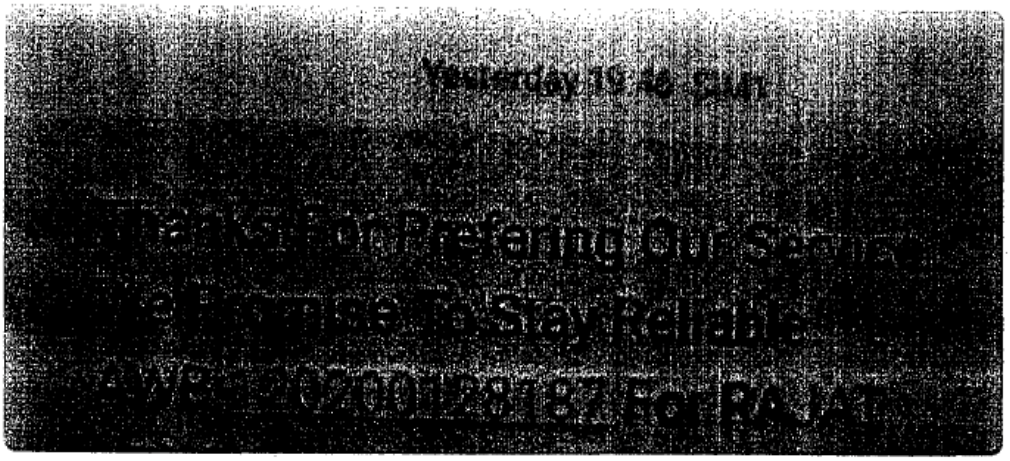
Give me sometime
8:13:31 PM IST ✓✓

18/09/21

CPm8l4oG (+918979803440)

??
6:11:29 PM IST

18/09/21



59.18 KB 7:48:27 PM IST ✓✓

Tirupati courier service
7:48:40 PM IST ✓✓

CMrql4oG (+918979803440)

Ok tha

7:48:50 PM IST

COX2l4oG (+918979803440)

Thanks

8:14:53 PM IST

U can do gpay on same number its 2500+100 shipping
8:15:58 PM IST ✓✓

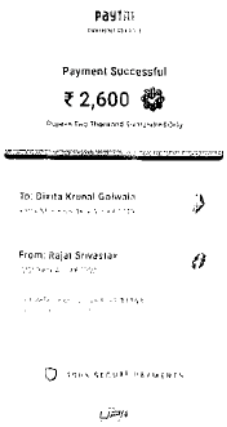
CLb3l4oG (+918979803440)

Sure

8:16:14 PM IST

21/09/21

CJfapooG (+918979803440)



Switch to India's fastest BHIM UPI payment app with Paytm. Pay anyone directly from your bank account and get upto ₹ 200 cashback on your first payment
https://p.paytm.me/xCTH/upi
67.02 KB 3:29:51 PM IST

Got it
3:59:09 PM IST

Thank you
3:59:12 PM IST

Have you received courier?
4:00:00 PM IST

ClfupooG (+918979803440)

Yes
4:12:15 PM IST

Great
4:12:54 PM IST

Let me know hows the stuff
4:13:04 PM IST

COTypooG (+918979803440)

It was great really liked it
4:22:20 PM IST

Great
4:22:44 PM IST

21/09/21

Buy in bulk you will get it cheaper
4:22:58 PM IST

CLb9pooG (+918979803440)

Yes

4:45:02 PM IST

22/09/21

Hello
8:35:57 PM IST

126.13 KB 8:36:08 PM IST

From your reference right?
8:38:53 PM IST

CLKOrYoG (+918979803440)

Yes

8:39:38 PM IST

6372415215
8:40:53 PM IST

CJCPrYoG (+918979803440)

??

8:41:12 PM IST

This is number of vendor u can directly contact
8:41:20 PM IST

It is becoming chain
8:41:42 PM IST

FORENSIC SCIENCE LABORATORY

22/09/21

CNGPrYoG (+918979803440)

Ohh... It's that so, I thought you were the source

8:42:17 PM IST

No bro

8:42:26 PM IST

8:42:32 PM IST

Though i dont take commission

8:43:07 PM IST

CKCQrYoG (+918979803440)

Even your packaging was very convincing

8:43:36 PM IST

CKeQrYoG (+918979803440)

Respect

8:43:43 PM IST

So give that number to ur friends

8:44:25 PM IST

CNqQrYoG (+918979803440)

Cool

8:44:34 PM IST

8:44:48 PM IST

44. The learned counsel for the Applicant states that these messages are not relatable to the recoveries from the Applicant. He states that at best the chat messages produced by the Respondent – NCB shows an attempt to malign the character of the Applicant. He also states that the Applicant being a small-time consumer, the character of the Applicant cannot be shown as

per section 53 and 54 of The Indian Evidence Act, 1872 ("IEA"). Reliance is also placed on the judgment of *Ram Lakhan Singh And Ors vs State Of Uttar Pradesh*(1977) 3 SCC 268 wherein the Apex Court observed as under:

> *"23. Although the judgment of the Sessions Judge is otherwise an exhaustive judgment it cannot be said from the instances which we have set out above that his appreciation is free from legal infirmity of some kind of prejudice against the accused who are described as "law breakers". In our system of law an accused starts with a presumption of innocence. His bad character is not relevant unless he gives evidence of good character in which case by rebuttal, evidence of bad character may be adduced (Section 54 of the Evidence Act)."*

45. Section 54 of IEA reads as under:

> *"**54. Previous bad character not relevant, except in reply.** – In criminal proceedings, the fact that the accused person has a bad character, is irrelevant, unless evidence has been given that he has a good character, in which case it becomes relevant.*"

46. In response, the learned standing counsel for the NCB has contended that it is conduct and not character that is relevant in the present case as per section 8 of IEA. Section 8 IEA reads as under:

> "***Section 8. Motive, preparation and previous or subsequent conduct.***
>
> *Any fact is relevant which shows or constitutes a motive or preparation for any fact in issue or relevant fact.*
>
> *The conduct of any party, or of any agent to any party, to any suit or proceeding, in reference to such suit or proceeding, or in reference to any fact in issue therein or relevant thereto, and the conduct of any*

person an offence against whom is the subject of any proceeding, is relevant, if such conduct influences or is influenced by any fact in issue or relevant fact, and whether it was previous or subsequent thereto."

47. The learner counsel for the Applicant in his rebuttal states that section 8 IEA is not applicable as no co-relation between the two i.e. the chats and the alleged recoveries from the Applicant has been established by the Respondent – NCB. Further, the chats are not with other co-accused persons but rather with one person named Venketesh Shrivastava and one unnamed person.

48. I am of the view that the chats do not show dealing of commercial quantity of contraband. In addition, the chats have also not been relatable to the recoveries made from the Applicant. The true import of chats can only be ascertained at trial.

49. Since the chats are not from the Telegram group 'Orient Express', their relevancy can only be ascertained once the parties go for trial. For the purpose of deciding this bail application, I am of the view –

    (a) chats do not show dealing in commercial quantity and;

    (b) no recovery has been made pursuant to the said chats.

50. Though one of the chats shows that the Applicant says "*buy in bulk you will get it cheaper*", the Applicant has not been found in possession of commercial quantity of contraband.

51. The chats seem to show that there is potential for the Applicant to deal in commercial quantity of contraband, however, 'potential' alone would not come within the purview of section 37 NDPS Act.

52. In my view, as of today, the chats show that the Applicant is a small-time consumer, sharing hash and weed with two people.

53. The question whether the Applicant is a drug-dealer or not and the two

persons with whom her chat has been found are clients can only be ascertained after trial.

54. The chats reveal conversations about narcotic substances such as hash and weed. However, the same is not directly linked with the recoveries made from the Applicant's residence and office.

55. In addition, the chats which have been filed do not belong to the Telegram group 'Orient Express' as none of the co-accused, allegedly part of the said group, have been found on these chats. They are personal chats between the applicant and two people and hence, do not fall within the purview of section 8 IEA.

56. Lastly, the Applicant has been in custody as an under-trial prisoner for almost23 months i.e., since 04.10.2021.

57. Delay in trial has been held to be an important circumstance by the Hon'ble Supreme Court for grant of bail, even in NDPS cases involving commercial quantity, in ***Jitendra Jain v. NCB*** *SLP (Crl.) 8900/2022*:

> *"Though it is a case of commercial quantity and allegations levelled against the petitioner are serious in nature, but having regards to the fact that he is in custody for 2 years and conclusion of trial will take time, we are inclined to release the petitioner on bail.*
>
> *The petitioner is, accordingly, ordered to be released on bail, subject to his furnishing bail bonds to the satisfaction of the trial court."*

58. Several other co-accused persons being Accused No. 3/Aashray Pandey, Accused No. 4/Jasbir Singh, Accused No. 6/Naman Sharma, and Accused No. 11 /Devesh Vasa have been released on regular bail. The allegation against Accused No. 3 was that 410 grams of ganja being small quantity

was recovered from him when he was on his way to deliver the parcel to Accused No.2.The allegation against Accused No. 4 was that he was involved in drug business through 'dark net' and ordered drugs from USA and Canada for the purposes of reselling in India.The allegation against Accused No. 6 was that he was one of the Admins of 'Orient Express' group on Telegram which was created by co-accused Mohd. Aslam and Parichay Arora. The allegation against Accused No. 11 besides his disclosure statement was that he indulged in purchase of narcotic substances and recovery of 5 blots of LSD, i.e., 0.05 grams of LSD was recovered from the parcel having the address and phone number of Accused No. 11 at the office of DTDC, Camac Street Branch, Kolkata. Despite the involvement and recovery at the instance of aforesaid accused persons, the alleged accused persons have been granted bail.

59. It is submitted by the learned counsel for the Applicant that the Applicant is not a flight risk and there is no apprehension of tampering with the evidence or influencing witnesses.

60. In my view, the triple test i.e., a) flight risk; b) tampering with evidence and c) influencing of witnesses can be taken care of by imposing stringent bail conditions.

61. Investigation is complete and no investigation has been sought or conducted qua the Applicant since 04.10.2021. Nothing is to be recovered from her or at her instance. The charges are yet to be framed and the trial will take considerable time.

62. For the aforesaid reasons, the application is allowed and the Applicant is granted bail on the following terms and conditions:

    i. The Applicant shall furnish a personal bond and a surety bond in the sum of Rs. 50,000/- each, to the satisfaction of the Trial Court;

    ii. The Applicant shall appear before the Court as and when the matter is

taken up for hearing;

iii. The Applicant shall provide her mobile number to the Investigating Officer (IO) concerned, which shall be kept in working condition at all times. The Applicant shall not switch off, or change the same without prior intimation to the IO concerned, during the period of bail;

iv. The Applicant shall join investigation as and when called by the I.O. concerned;

v. In case the Applicant changes her address, she will inform the I.O. concerned and this Court also;

vi. The Applicant shall not leave the country during the bail period and surrender her passport, if any, at the time of release before the Trial Court;

vii. The Applicant shall not indulge in any criminal activity during the bail period;

viii. The Applicant shall not communicate with or come into contact with any of the prosecution witnesses or tamper with the evidence of the case.

63. The observations made hereinabove are only for the purposes of the deciding the present bail application. They shall not have any bearing in the deciding the merits of the case.

64. The application is allowed and disposed of in the aforesaid terms.

JASMEET SINGH, J

AUGUST 25th, 2023/*jv* *Click here to check corrigendum, if any*