

State Vs Govind & Ors.
FIR no. 64/2021
P.S. Baba Haridas Nagar
U/s. 20 NDPS Act

20.12.2023

**ORDER ON BAIL APPLICATION OF
APPLICANT/ACCUSED AJAY MAHESHWARI**

This is an application under Section 439 Cr.P.C. for grant of bail moved on behalf of applicant/accused Ajay Maheshwari S/o Sh. Anil Maheshwari.

Reply to the bail application filed.

Arguments heard.

It is stated by Ld. Counsel for applicant/accused that main accused Govind was arrested on 12.02.2021 and 8.190kg ganja was recovered from his suitcase and on his disclosure 15.100 kg ganja was also recovered from his room. It is further stated that on the disclosure statement of main accused, name of applicant/accused emerged and he himself surrendered before the court. It is further argued that no recovery was affected from the present applicant/accused. It is further argued that there is no Whatsapp chat or any monetary transaction between the present applicant and the other co accused and even no contraband was recovered from the present applicant/accused. It is further argued that notice issued to the main accused under section 50 of NDPS is faulty and that same ACP was called on the spot who has given instruction to conduct the raid. It is prayed that applicant/accused be granted bail. Ld. counsel for the

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applicant/accused relied on (1) Tofan Singh Vs State of Tamil Nadu CrI. A.No. 152/2013 decided on 29.10.2020 (2) Anita Vs State of NCT Bail application no. 1538/2022 (3) Rehmatullah @ Akram Vs State of Delhi, Bail Application no. 2866/2022 (4) Shyam Gupta & ORs Vs State CrI.Rev.P. 421/2019 dated 13.03.2022 and (5) Axat Gulia Vs The State (NCT of Delhi), Bail Appln. 1443/2023 dated 07.08.2023.

As per reply of IO dated 14.09.2023, accused Govind was arrested on the basis of secrete information and 23.290KG of Ganja was recovered from his possession. In his disclosure statement, accused Govind disclosed that the present applicant/accused Ajay Maheshwari and accused Vikas (P.O.) used to supply Ganja to him and that the CDRs of the accused Govind and the present applicant/accused Ajay Maheshwari reveals that they were in frequent contact with each other and in total 334 calls were exchanged between the accused Govind and the present applicant/accused Ajay Maheshwari.

Ld. Addl. P.P. for the State has opposed the bail application stating that the present applicant entered into a conspiracy with the main accused Govind from whose possession Ganja was recovered in the commercial quantity and as such the allegations against the present applicant/accused are serious in nature and the present bail application be dismissed.

Submissions heard. Considered.

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Besides the confessional statement of the accused recorded under section 67 of the NDPS Act, there is nothing on record to show the involvement of the present applicant/accused. No recovery has been made at the instance of the applicant/accused or pursuant to his disclosure statement. It is clearly laid down by the Hon'ble Supreme Court of India in Judgment titled as Tofan Singh Vs State of Tamil Nadu (2021) 4 SCC 1 "that the statement recorded under Section 67 of the NDPS Act, 1985 cannot be used as confessional statement in the trial of an offence under the NDPS Act". The only evidence against the present applicant, apart from the disclosure statement of the accused Govind, is the calls exchanged between the present applicant and the accused Govind and the supplier Vikas, however, same cannot form the sole ground to deny the grant of bail to applicant/accused. It has been held in Amit Ranjan Vs Narcotics Control Bureau, Delhi 2022:DHC:1985 as "It is essential to observe that the aspects of the CDR details and alleged connection between K K Pharma Solutions and Vinay Pharmaceuticals and the applicant and the co-accused persons and monetary transactions between them being in relations to illicit trafficking of narcotics or psychotropic substances can only be gauged at trial".

Considering the overall facts and circumstances, the applicant/accused Ajay Maheshwari S/o Sh. Anil Maheshwari is

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admitted to bail on his furnishing personal bond in the sum of Rs.50,000/- with one surety of the like amount.

The bail is granted subject to the following conditions:

1. The applicant/accused shall not leave country without prior permission of the court;
2. The applicant/accused shall not tamper with evidence of the case in any manner.
3. The applicant/accused shall appear before the court on each and every date of hearing.

Copy of the order be sent to accused through Jail Superintendent concerned. Copy of order be also given dasti to Ld. counsel for the accused and to the prosecution.

Put up on date already fixed i.e. **24.02.2024**.



(MANU GOEL KHARB)
SPECIAL JUDGE (NDPS)-02
DWARKA COURTS, NEW DELHI
20.12.2023