

**SC No. 410/2023**

**Crime No. VIII/23/DZU/2023**

**NCB Vs. Mike Anthony D'Souza & Ors.**

24.09.2025

**ORDER ON CHARGE**

1. Vide the present order, I shall decide the issue of framing of charges/discharge of the accused persons for committing the offences, alleged by the IO/complainant in the complaint filed before this Court.

2. Accused Gajender Singh Kandhari and Mike Anthony D'Souza had already conceded to the charges, vide order dated 28.11.2024. However, on 06.09.2025, the Ld. Counsel for accused Mike Anthony D'Souza had addressed arguments on the point of charge, on the ground that the present prosecution is not maintainable, since the mandatory authorization to carry out the controlled delivery u/s 50 A of the NDPS Act was not obtained from the Director General, NCB.

3. Shorn of unnecessary details, the brief case of the prosecution is that on 24.05.2023, a secret information was received by JIO Sh. Vijender Singh that one parcel bearing AWB No. Z16279354 was destined to Mike Anthony D'Souza, who was a resident of Margao, Goa and the said parcel was lying at DTDC Express office situated at Village Samalkha and if the said parcel was intercepted, huge quantity of the contraband could be recovered.

4. The NCB constituted a raiding team, after the necessary authorization was granted by Superintendent Sh. Amit Kumar Tiwari and the team led by JIO Harender Dagar and consisting of Sepoy Ajay Kumar Gaur and JIO Vijender Singh left the NCB office after taking the seal of 'NCB DZU – 4' alongwith them. The IO had also carried the field testing kit and other necessary items and they reached the DTDC office at about 03:20 PM on 24.05.2023 itself.

5. After reaching the DTDC office, in the presence of one independent witness namely Shashank Kumar, the abovementioned parcel was examined minutely and it was found containing a yellow coloured envelope, which was sealed/closed with the cello tape. The envelope was opened and it was found containing 5 plain papersheet and on the said papersheets, foil paper was pasted with the help of cello tape. After removing the foil paper, it was found containing 9 LSD Blots, whose weight came out to be 0.15 grams (commercial quantity). The parcel was found containing the name, complete address and mobile number of accused Mike Anthony D'Souza and the name of the sender was one Sanjay. The NCB officials completed the panchnama proceedings after duly preparing the video of the seizure proceedings.

6. On 24.05.2023, IO Manoj Kumar Yadav wrote a letter to Manager DTDC Express with a request to provide the details of the abovementioned AWB number and also requested them for

not displaying the status as 'on hold' and instead it was requested to show the parcel had reached the receiver DTDC Branch.

7. The IO was informed by DTDC staff that the customer who had booked the parcel in question had sent an email to DTDC customer support ID, by raising a query about the shipment in question. The DTDC duly replied back to the said query by mentioning that the parcel had already reached the receiver DTDC branch at Goa. Thereafter, it was also apprised to the IO that the receiver was also making enquiries regarding the parcel. Thereafter Superintendent, NCB directed IO Manoj Kumar Yadav to constitute a team and to take appropriate action as per law, regarding the apprehension of the receiver.

8. On 25.05.2023, the NCB team led by IO Manoj Kumar Yadav reached Goa and contacted the local DTDC office, Margaon, South Goa and they were informed that accused Mike Anthony D'Souza may come to their office on 26.05.2023 between 09:30 to 10:30 AM. On the next day i.e. 26.05.2023, the NCB team met the owner of the said DTDC Franchisee namely Sunil Bhasker Narayan and informed him about the secret information and the recovery of the contraband and the said owner informed the NCB team that the receiver of the parcel in question was coming to their office and he was enquiring about his parcel. Thereafter, accused Mike Anthony D'Souza came to the said DTDC office and the IO showed him his ID Card and introduced himself and other NCB team officials. Thereafter, on taking directions from Superintendent, NCB DZU on telephone,

the IO and accused Mike Anthony D'Souza reached at the house of the accused and one independent witness namely Omaram Chaudhary agreed to voluntarily to join the team and the search proceedings were conducted. The house of the accused was opened by his mother namely Mena D'Souza and during the search in the presence of the accused, his mother and independent witness, one Apple Macbook and mobile phone alongwith other identity related documents were seized.

9. During his voluntary statement recorded u/s 67 of the Act, accused Mike Anthony D'Souza admitted his complicity in the offence in question and he had disclosed that he ordered the LSD paper blots through 'Wicker Me' private messenger mobile app and he used the profile name 'Blotterson' and had ordered 10 LSD paper blots from some one operating the profile with user name 'Saulbadman007'. In consideration, the seller had demanded Rs. 3800/- to be paid through Monero Crypto Currency. Accused Mike Anthony D'Souza had transferred Rs. 3800/- from his bank account through UPI in the account of one broker, for exchanging it with crypto currency and thereafter the link with Monero Crypto Currency, alongwith his mobile number and address was sent to the Wicker Me profile of Saulbadman007. Thereafter, on the very next day, he received a DTDC airway bill tracking number Z16279354 and he was being informed that the sender had only sent 9 LSD Blots in the said parcel.

**10.** On 24.05.2023, accused Mike Anthony D'Souza had sent an email from his email ID '[armikdsouza@gmail.com](mailto:armikdsouza@gmail.com)' to DTDC support mail ID i.e. '[customersupport@dtdc.com](mailto:customersupport@dtdc.com)', regarding the delivery status of the parcel and had also called the owner of the DTDC Margaon Franchisee Sh. Sunil Bhasker Narayan on his mobile number.

**11.** Thereafter, on 31.05.2023, IO Manoj Kumar Yadav sent the Vivo mobile phone and Apple Macbook of the accused Mike Anthony D'Souza to Sherlock Institute of Forensic Science India Private Limited, Kingsway Camp, Delhi for extraction of the image and data of the said devices and for the expert opinion. The detailed report was extracted and handed over to the IO.

**12.** During further investigation, the parcel booking clerk of Union Trade Solutions, Laxmi Nagar duly informed the IO in his voluntary statement that the parcel in question was booked on 23.05.2023 at about 01:00 PM by one person who informed his name as Sanjay and he informed the courier office that he wanted to book a parcel containing some documents, which was destined for Goa. On 29.05.2023 at about 12:00 PM the said sender again came to their office with a similar skyblue parcel for booking. The accused Gajender Singh Kandhari was apprehended by the NCB officials and it was him, who was sending the parcels by using the alias of Sanjay.

**13.** Accused Gajender Singh Kandhari informed the NCB officials that accused Shainu R. Hatwar was his girlfriend and the parcel containing 9 LSD blot papers with AWB No. Z16279354 was sent by him to accused Mike Anthony D'Souza, upon the directions of his girlfriend accused Shainu R. Hatwar. On 29.05.2023, when he was apprehended by the officials of NCB at the courier booking office, he had booked another parcel containing 15 LSD blots. Thereafter, 650 LSD blots were also seized from his house and he had disclosed that his girlfriend accused Shainu R. Hatwar had created the Wicker Me profile of saulbadman007 and they used to take payments for supply of LSD drugs through crypto currency.

**14.** On 06.06.2023, in response to notice issued to her u/s 67 of the Act, accused Shainu R. Hatwar appeared before the IO and tendered her voluntary statement, in which she admitted her Wicker Me app ID was created in the name of 'saulbadman007' and she duly admitted that on 22.05.2023, she had received a request of 10 LSD Blot papers from the ID of one 'blotterson' and after she had received the payment for crypto currency and the details of the addressee, since, she had received only Rs. 3200/-, instead of Rs. 3800/-, she had sent 9 LSD blot papers to accused Mike Anthony D'Souza through her boyfriend accused Gajender Singh Kandhari. She also admitted that on 29.05.2023, on her instructions, she had sent accused Gajender Singh Kandhari to DTDC Courier for booking another parcel containing LSD Blot papers, when the co-accused was apprehended by the NCB officers.

**15.** During the investigation the CAF and CDR of accused Mike Anthony D'Souza's mobile no. 8076296066 was obtained, in which there were sufficient number of calls between him and DTDC Staff and also his location near the DTDC office, Margao, Goa. The IO also obtained the CAF and CDR of accused Shainu R. Hatwar and Gajender Singh Kandhari, in which they were having regular contacts with each other and their locations were also found at the same place on 23.05.2023 & 24.05.2023. The voluntary statement of independent witnesses namely Shashank Kumar and Omaram Chaudhary were recorded.

**16.** The recovered contraband was sent to CRCL for forensic examination and it returned back positive for LSD.

**17.** The handwriting samples of accused Gajender Singh Kandhari were taken in pursuance of order dated 19.09.2023 passed by Ld. MM and his specimen handwriting alongwith the question documents i.e. envelope bearing AWB No. Z16279354 was sent to CFSL and it came back with the report dated 25.10.2023, wherein the said handwriting were found to have matched.

**18.** The mobile phones of accused Gajender Singh Kandhari and Shainu R. Hatwar were seized during the investigation of Crime No. VIII/24/DZU/2023 and same were sent for forensic analysis and the said report is also relied upon by the NCB in the present case.

**19.** The Ld. Counsels for the accused Shainu R. Hatwar did not address any oral submissions and they had filed the written submissions and same were perused carefully. It is averred in the written submissions filed on behalf of accused Shainu R. Hatwar that all the allegations levelled against her by the prosecution are baseless and she was arrested merely upon the disclosure statement of co-accused Gajender Singh Kandhari. She is neither the sender, nor receiver of the parcel in question. There is no bank account statement of her's to show that she ever received the money in question in form of crypto currency or otherwise.

**20.** It is averred in the written submissions filed on behalf of accused Shainu R. Hatwar that the NCB has not brought on record a single chat or CDR to show her link with co-accused Mike Anthony D'Souza. Furthermore, the calls and location ID chart, showing the link between her and co-accused Gajender Singh Kandhari is also not incriminating, since, as per the case of prosecution itself, they were dating each other.

**21.** It is averred in the written submissions filed on behalf of accused Shainu R. Hatwar that there is no recovery of any contraband from her possession or at her instance. There is no proof that the Wicker Me account of 'Saulbadman007' was ever used by her and there is no recovery of any parcel receipts, which were allegedly handed over to her by co-accused Gajender Singh Kandhari. There is no bank account statement or other incriminating evidence to show that the tainted money ever



reached her. Therefore, she deserves to be discharged from the present case.

22. It is averred in the written submissions filed on behalf of accused Shainu R. Hatwar that NCB officials are using the statements of the accused made in connected in crime No. VIII/24/DZU/2023, however the same can not be read as evidence in the present case, since in that case there was a recovery at her instance and a person namely Sarabjeet was arrested, however, there is no mention of the said person in the present case and he is not made an accused here. She was arrested on 29.05.2023 in the present case and NCB has sufficient material to complete their investigation in relation to the case against the said person namely Sarabjeet, in the present case itself.

23. The Ld. Counsel for accused Shainu R. Hatwar is relying upon the decisions of Hon'ble High Court of Delhi in ***"Shyam Gupta and Ors Vs. State"***, Neutral Citation:2023:DHC:001777 and the decisions of Hon'ble High Court of Madhya Pradesh in ***"Anil Patel Vs. State of MP"***, Crl. Revision No. 2324/2022 and ***"Jibrail Mondal Vs The State of Madhya Pradesh and Ors."*** MANU/MP/0959/2023.

24. It is submitted by Ld. SPP for NCB that although the present case is akin to a controlled delivery, however, there is no law that if the authorization u/s 50 A of the Act was not taken, then it would vitiate the entire trial. Merely because the said authorization was not there, would not throw the entire recovery

of the contraband from the net of prosecution. Section 50 A of the Act specifically uses the word 'may' undertake controlled delivery of any consignment and the legislature in its own wisdom did not use the word 'shall' instead. All the mandatory provisions of the NDPS Act i.e. Section 42, Section 50, Section 57 etc. were duly followed by the NCB.

25. It is further submitted by Ld. SPP for NCB that there is no merit in the objection taken by accused Shainu R. Hatwar that the evidence collected in Crime No. VIII/24/DZU/2023 could not be used against her in the prosecution of the present case. The mobile data of the phone duly recovered from her possession in the said case was sent to forensic analysis and it had duly come therein that Wicker Me profile of 'Saulbadman007' was used by her. Therefore, the NCB has presented sufficient evidence to show prima facie case against all the three accused persons.

26. As far as the law relating to framing of charges, this Court deems it fit to reproduce the decision of the Hon'ble Supreme Court of India in ***"Dilawar Balu Kurane Vs. State of Maharashtra"*** (2002) 2 SCC 135:-

*"11. It is apparent that the learned Special Judge proceeded to frame charge qua the petitioner on the basis of the disclosure statement of co-accused Jalil Khan and the CDR, which reflected that there were 2 voice calls between Jalil Khan and the petitioner. A perusal of the chargesheet reflects that reliance on the CDR was placed in the backdrop of the disclosure statement of co-accused Jalil Khan, which is inadmissible in nature.*

12. *The Hon'ble Supreme Court in Dilawar Balu Kurane v. State of Maharashtra*<sup>1</sup> has observed that while framing charges, the Judge has the power to ascertain whether the materials on record disclose 'grave suspicion' against the accused. It has been held as under:-

"12. Now the next question is whether a *prima facie* case has been made out against the appellant. In exercising powers under Section 227 of the Code of Criminal Procedure, the settled position of law is that the Judge while considering the question of framing the charges under the said section has the undoubted power to sift and weigh the evidence for the limited purpose of finding out whether or not a *prima facie* case against the accused has been made out; where the materials placed before the court disclose grave suspicion against the accused which has not been properly explained the court will be fully justified in framing a charge and proceeding with the trial; by and large if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully justified to discharge the accused, and in exercising jurisdiction under Section 227 of the Code of Criminal Procedure, the Judge cannot act merely as a post office or a mouthpiece of the prosecution, but has to consider the broad probabilities of the case, the total effect of the evidence and the documents produced before the court but should not make a roving enquiry into the pros and cons of the matter and weigh the evidence as if he was conducting a trial [See *Union of India versus Prafulla Kumar Samal & Another* (1979 3 SCC 5)]."

13. Applying the aforementioned principles to the case at hand, it is clear that the only evidence against the petitioner is the CDR which creates a suspicion but not a grave suspicion. If the CDR is considered sans the disclosure statement, there is

*nothing on record to link the said intercepted calls to the recovery in question. Mere CDR connectivity, without there being any conversation containing incriminating material against the petitioner, would not bring the case within the net of 'grave suspicion'. No other material has been placed on record to support to show that the petitioner was in any way involved with the contraband allegedly recovered from the three co-accused persons namely Sanjay, Mausam Ali and Chhote Khan. The disclosure statements of said co-accused persons as well as the secret information received by the police do not mention the name of the petitioner. Also, no recovery has been made from the petitioner at the time of his apprehension.*

*14. The Court also draws support from the decision of Coordinate Bench of this Court in Shyam Gupta & Ors. v. State wherein mere CDR connectivity between the accused persons was found not enough to bring the case under grave suspicion.*

*15. In view of the above, this Court is of the considered opinion that the proceedings against petitioner would be an abuse of law and thus, are liable to be set aside. Consequently, the petition is allowed and the proceedings qua the petitioner are quashed. Pending application is disposed of as infructuous.”*

27. The Court at the stage of framing of charge is to evaluate the material not only for the purpose for finding out whether the commission of the offences in question is made out and whether it would lead to conviction, however, it has to be seen for the limited purpose as to whether from the facts emerging from the records, if taken on the face value, disclosed the existence of ingredients constituting the offences in question. The Court only has to form an opinion that the accused might have committed

the alleged offences, however, for the purposes of conviction, the burden has to be satisfied beyond reasonable doubt.

28. The Hon'ble Supreme Court of India in ***"Bhawna Bai Vs. Ghanshyam"*** (2020) 2 SCC 217 had held that while evaluating the material at the stage of framing of charges, strict standard of proof is not required; however only prima facie case against the accused is to be seen.

29. The Hon'ble High Court of Delhi in ***Shyam Gupta (Supra)*** had categorically held that it is settled law that if two views are possible, one of them only giving rise to suspicion and not to grave suspicion, then the Court shall discharge the accused.

30. The Hon'ble Supreme Court of India in the celebrated landmark judgment of ***'Badri Rai Vs State of Bihar', AIR 1958 SC 953*** had held that the conspiracy is hatched in secrecy and executed in darkness. Therefore, naturally it is not feasible for the prosecution to connect each isolated act or statement of one accused with that of the others, unless, there is a common bond linking all of them together. The crime is completed when they agreed. The actual concert between them in itself is an overt act and punishable by the law. Conspiracy is something more than a joint action. The pre-concert/agreement is must.

31. In ***'State (NCT of Delhi) Vs Navjot Sandhu @ Afsan Guru'***, (2005) 11 SCC 797, it was held by Hon'ble Apex Court that the liability of co-conspirator to the individual act of other

conspirators is limited to their punishment of the substantive offence of being in criminal conspiracy, punishable u/s 120B IPC, 1860.

32. The Hon'ble Apex Court in "***Mohd Khalid Vs State of West Bengal***", (2002) 7 SCC 334 has held that in a case revolving around section 10 of Indian Evidence Act, 1872, the first condition which is almost like opening the lock of section 10 is 'reasonable grounds to believe' that the persons have conspired together. Once, that is prima facie established, anything said or done by the co-conspirator is admissible against the rest, provided that what was said and done was in reference to their common intention. The section 10 is underlined by the principle of agency.

33. As far as accused Mike Anthony D'Souza and Gajender Singh Kandhari are concerned, they have already conceded to the charges. The objection raised against the entire prosecution by the Ld. Counsel for accused Mike Anthony D'Souza that the present case was of controlled delivery and since no authorization was obtained from the Director General of NCB or any other officer authorized by him in this behalf, the entire investigation and prosecution falls, since it does not have any legs to stand upon. The said contentions are devoid of any merit, since there is no mandate of law that in every case based upon the secret information regarding the delivery of any consignment within India or to a foreign country, the NCB shall get the appropriate orders u/s 50A of the Act passed from the Director General, NCB. The legislature has carefully used the word 'may',

instead of 'shall', while inserting the said section by the amending act no. 9 of 2001, w.e.f. 02.10.2001.

34. On the basis of the secret information received by the NCB officials, the alleged parcel was intercepted at the office of the DHL Express and it led to recovery of the contraband i.e. 9 LSD Blots weighing 0.15 grams (commercial quantity). The name of accused Mike Anthony D'Souza was mentioned as the intended receiver of the said parcel. His complete address and contact number was also mentioned on the parcel. He had contacted the customer support of the DTDC Courier through email, while making enquiries regarding the status of the parcel. He had additionally called the office of the local DTDC franchisee and he was caught red handed at the DTDC office, Margao, Goa, while attempting to receive the said parcel. The said proceedings took place in the presence of independent witnesses. Therefore, there exists strong suspicion of his involvement in the offence in question and let charges u/s 22 (c) r/w 29 of NDPS Act be framed against him.

35. As far as Gajender Singh Kandhari is concerned, there are allegations of him being the sender of the said parcel, which was addressed to co-accused Mike Anthony D'Souza and he had used the alias of Sanjay while booking the said parcel. He was duly identified by the official of the booking office of the courier company and was apprehended while he was booking another courier, in which further contraband was recovered. As per the case of prosecution, he had sent the said parcel at the behest of his girlfriend co-accused Shainu R. Hathwar, who used to

dispatch the contraband after the prospective customers used to place an order through Wicker Me app, wherein she was using the profile ID of 'Saulbadman007' and the parcel in question containing the contraband was sent after co-accused Mike Anthony D'Souza has placed an order from his profile ID of 'blotterson'. The handwriting samples of the accused Gajender Singh Kandhari were taken and sent for FSL examination, in which his handwriting has matched with the questioned document i.e. slip on the parcel in question. Therefore, there exists strong suspicion of his involvement in the offence in question and let charges u/s 22 (c) r/w 29 of NDPS Act be framed against him.

36. As far as accused Shainu R. Hatwar is concerned, it is not disputed that she was arrested in other case Crime No. VIII/24/DZU/2023 and the mobile phone used by the accused i.e. RedMe Note 11 Pro Plus was seized by the NCB officials in the said case and it was sent for forensic analysis and the data extraction report from SIFS, alongwith similar data extraction report of the mobile phone of accused Gajender Singh Kandhari i.e. RealMe 8 was filed in the form of additional documents in the present case as well.

37. From the data extracted, it was brought on record that nothing incriminating was found from the mobile phone of accused Shainu R. Hatwar and she had allegedly already wiped her mobile phone. It was only found that the whatsapp application was installed in the handset and its chats were retrieved. None of the said chats are with co-accused Mike



Anthony D'Souza. There are certain screen shots of payments made to and from her account, including payment receipt from co-accused Gajender Singh Kandhari through Paytm. There are certain other chats with one person whose name was saved as Sahil, however, the same is also not having any incriminating evidence with relation to the offence in question.

38. The case of the prosecution is that contraband in question was sent to co-accused Mike Anthony D'Souza by accused Shainu R. Hatwar through her boyfriend co-accused Gajender Singh Kandhari and after dispatching the parcel, the co-accused Gajender Singh Kandhari had taken the photographs of the courier slip and the address mentioned on the said parcel and same was sent by him to accused Shainu R. Hatwar. However, no such photographs were found in the phone of accused Shainu R. Hatwar and same was only found in the phone of co-accused Gajender Singh Kandhari.

39. The prosecution is seeking to rely upon the disclosure statement of accused Shainu R. Hatwar recorded in the other case Crime No. VIII/24/DZU/2023 and also the disclosure statement of one Sarabjeet Singh, who is the co-accused in the said case to establish that the Wicker Me profile of 'Saulbadman007' was operated by accused Shainu R. Hatwar. The said disclosure statements, that too recorded in some other case, has no evidentiary value. Reliance is placed on the decision of Hon'ble Supreme Court of India in ***"Tofan Singh Vs. State of Tamil Nadu"***, (2021) 4 SCC 1. The prosecution is also relying on the CDR and cell location ID charts of accused Shainu R. Hatwar

and co-accused Gajender Singh Kandhari. The said CDRs and Cell Location, in absence of any transcripts of the calls are not creating any strong suspicion, since it is not disputed that the they were in a relationship and were residing together. Lastly, merely because from the mobile data extracted from the phone of co-accused Mike Anthony D'Sauza it is reflected that he had placed the order with someone operating the Wicker Me profile of Saulbadman007, however, nowhere does it establish even prima facie that the said profile was operated by accused Shainu R. Hatwar. Therefore, the case of the accused Shainu R. Hatwar is fully covered in the decisions of the Hon'ble High Court of Delhi *Shyam Gupta (Supra)* and there exists no grave suspicion of her involvement in the offences in question. The CDRs sans the disclosure statements do not establish the link of the said calls to the recovery in question. There is no other material placed on record through the present complaint and additional documents, to support the allegations with respect to her involvement with the contraband allegedly recovered in the present case, since there was no recovery effected from her or at her instance. Therefore, accused Shainu R. Hatwar is hereby discharged. She shall furnish her bail bonds u/s 481 BNSS, 2023 within one week from today, in a sum of Rs. 50,000/- with one surety of like amount.

**(Atul Ahlawat)**  
**ASJ/Spl. Judge, NDPS/N. Delhi**  
**24.09.2025**