

**FIR No.91/2018**

**PS: Kotwali**

**State Vs. Sarfaraz Alam**

**U/s 395/397/411/34 IPC.**

04.07.2020

Present: Sh. K.P.Singh, Ld. Addl. PP for State.

Sh. S. Haq, Counsel for accused-applicant (through video conferencing)

Hearing conducted through Video Conferencing.


This is an application for grant of interim bail on behalf of accused Sarfaraz Alam in case FIR No. 91/2018 invoking guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 18.05.2020.

Report in respect of accused Sarfaraz Alam is received from Jail Superintendent to the effect that accused Sarfaraz Alam is in custody in the present case from 20.04.2018 and that his over all conduct in jail is satisfactory / good and he has not been awarded any punishment in jail today. As per report received from the IO, accused-applicant is not involved in any other case.

In such facts and circumstances relying upon the guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 18.05.2020 for release of undertrial prisoners for 45 days interim bail in order to decongest the prisons in Delhi in the wake of out break of covid-19 pandemic, and as the accused-applicant fulfills all the criteria

*N. K. Singh*

prescribed under the guidelines, **interim bail for 45 days is granted to the accused Sarfaraz Alam in case FIR No.91/2018 on furnishing personal bond in the sum of Rs.50,000/- to the satisfaction of the Jail Superintendent** and subject to the condition that accused-applicant shall deposit his passport if he holds one with the IO and that during the period of interim bail he shall not in any manner threaten/ influence the witnesses in this case or tamper with the evidence or interfere with the course of justice in any manner whatsoever, and shall furnish his mobile phone number and that of one responsible member of the family to the IO and shall ensure that the mobile phone number remains throughout on switched on mode with location activated and shared with the IO. That the accused-applicant shall not leave the territorial limits of NCR Region without prior intimation to the IO concerned.

  
(Neelofer Abida Perveen)  
ASJ (Central) THC/Delhi  
04.07.2020

**FIR No. 214/2017**  
**PS: Crime Branch**  
**State Vs. Gulshan & Ors.**  
**U/s 20/29 NDPS Act**

04.07.2020

Fresh application received. Be registered.


Present: Sh. K.P.Singh, Ld. Addl. PP for State.

Ms. Rashmi Kaushik, Counsel for accused-applicant  
(through video conferencing)

Hearing conducted through Video Conferencing.

This is an application for modification of conditions of bail grant to accused-accused James Kumar vide order dated 17.06.2020 in case FIR No. 214/2017.

After arguing for some time, ld. Counsel for the accused-applicant submits that she does not want to press upon the present application and that the same may be dismissed as withdrawn. It is ordered accordingly. **The application for modification of conditions of bail grant on behalf of accused-applicant James Kumar in case FIR No. 214/2017 is dismissed.**

  
(Neelofer Abida Perveen)  
ASJ (Central) THC/Delhi  
04.07.2020

**FIR No. 245/2018**

**PS: Nabi Karim**

**State Vs. Parveen Kumar @ Pummy**

**U/s 302 IPC**

04.07.2020

Fresh application received. Be registered.

Present: Sh. K.P.Singh, Ld. Addl. PP for State

Sh. Siddhartha Singh, Counsel for accused-applicant (through video conferencing)

Hearing conducted through Video Conferencing.

This is an application for extension of interim bail granted to the accused-applicant vide order dated 19.06.2020, filed on behalf of accused Parveen Kumar @ Pummy in case FIR No. 245/2018.

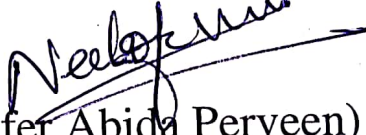
Accused-applicant was granted 10 days <sup>or</sup> ~~was~~ interim bail and his application for extension of interim bail was dismissed on 30.06.2020 as the accused-applicant had relied upon certificate issued by Dr. Gajender Nayyar, the registration of Dr. Gajender Nayyar <sup>being</sup> ~~is~~ under suspension by the Delhi Medical Council. The accused-applicant however did not surrender after the expiry of the period of interim bail despite dismissal of first application for extension of interim bail and report has been received from Deputy Superintendent Jail, Rohini that accused Parveen Kumar @ Pummy released from this jail on 22.06.2020 was to surrender on 01.07.2020 has not surrendered till date. Accused-applicant has now preferred this second application for extension of interim bail. The

*Nabi Karim*

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application of extension of <sup>^</sup>bail can only be considered during the subsistence of the period of interim bail. Once the period has lapsed, there arises no question of granting extension of interim bail with retrospective effect. **The application is dismissed as not maintainable. The IO is directed to take appropriate steps in accordance with law.**

  
(Neelofer Abida Perveen)  
ASJ (Central)THC/Delhi  
04.07.2020

**FIR No. 243/2018**  
**PS: Nabi Karim**  
**State Vs. Shiva**  
**U/s 302/34 IPC**

04.07.2020


Present: Sh. K.P.Singh, Ld. Addl. PP for State.

Sh. Kamal Deep, Counsel for accused-applicant (through video conferencing)

Hearing conducted through Video Conferencing.

This is an application for extension of interim bail under Section 439 CrPC filed on behalf of accused Shiva in case FIR No. 243/2018.

Detailed report has been filed today. It is reported that the accused-applicant had visited the dentist on 29.06.2020, 30.06.2020 and 02.07.2020 and the doctor concerned has reported that two sitting of RCT has already been given to accused Shiva till 02.07.2020 and 2-3 sittings are required with a gap of 3-4 days and that is how the RCT which generally requires 4-5 sittings will take 10-15 days. Presently only left side RCT is going on and thereafter right side RCT will be conducted. In view of the report, therefore, interim bail of accused Shiva is extended by 15 days on the same terms and conditions.

  
(Neelofer Abida Perveen)  
ASJ (Central) THC/Delhi  
04.07.2020

**FIR No. 699/2015**  
**PS: ODRS**  
**State Vs. Abdul Gani**  
**U/s 302/397/34 IPC**

04.07.2020

Fresh application received. Be registrered.

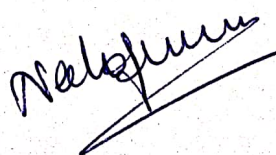
Present: Sh. K.P.Singh, Ld. Addl. PP for State.

Counsel for accused-applicant (through video conferencing)

Hearing conducted through Video Conferencing.

This is an application for grant of regular/interim bail on merits filed on behalf of accused Abdul Gani in case FIR No. 699/2015 considering the emergency situation prevailing due to spread of corona virus in India.

It is declared in the application that the present bail application does not fall within the ambit of minutes of meeting as well as under the guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi. It is contended that accused was formally arrested in the present case on 26.11.2015 and is in custody since then and he was involved in 4-5 criminal cases but stands acquitted in all other criminal cases. That material witnesses have been examined. That applicant is falsely implicated. That investigation is complete, chargesheet filed and applicant is no longer required for the purposes of investigation. That liberal view may be taken in favour of accused-applicant in the wake of the

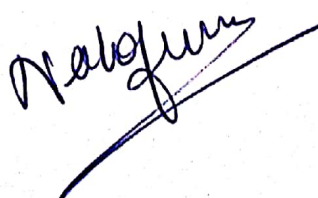


outbreak of covid-19 and he may be permitted to live in isolation with his family members to provide mental support to his family members.

Ld. Addl. PP, on the other hand, submits that accused-applicant is involved in 12 other cases and is a desperate criminal and that the victim was first stopped for stealing his mobile phone and when he protested, he was stabbed to death. That accused-applicant has played an active role as he had restrained the deceased while co-accused had given the fatal knife injury. Ld. Addl. PP further submits there is every likelihood that accused shall misuse the concession if enlarged on bail and that the accused does not have clean antecedents.

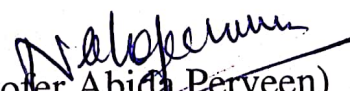
Arguments heard. Record perused.

On 07.11.2015, police received information that one Vinod Kumar has been stabbed on the Shahadra Railway lines. By the time police arrived, the injured Vinod had been taken via PCR Van to GTB Hospital where he was declared as brought dead. FIR Bearing no. 699/2015 is registered on the statement of the eye witness Rajinder to the effect that when the deceased and the eye witness were returning from their place of work and had reached near the Shahadra Railway Station, they saw some boys sitting on the railway track, who caught hold of them, he managed to escape and the deceased was stabbed by the accused when he resisted and this incident he witnessed from a distance of a few steps after escaping from their cudgels. The eye witness has been examined and has supported the case of the prosecution and has identified the accused-





applicant as one of the offender who had intercepted and assaulted the deceased. The cross-examination of the eye witness spilled across several dates and on each date he gave a somewhat different account of what he saw and who all he saw. Though the eye witness has supported the case of the prosecution but has waived on some material accounts, pertaining to the identification of the accused. The witness has not been able to pin point as to who out of the three accused specifically had stabbed the deceased, but the presence of accused-applicant is affirmed by the eye witness. Further the accused-applicant does not have clean antecedents. The accused in this case on every date of hearing in the court are found to be very vocal and insist upon conducting the proceedings themselves without any legal counsel. There is perceptible an endeavour to overawe and browbeat even the official witnesses during the course of their examination in the Court. Taking into consideration, the nature of the offence and the strong apprehension of interference with the process of justice expressed by the prosecution and also as the accused does not have clean antecedents, it is not a fit case for grant of regular bail to the applicant-accused. No pressing urgency for grant of interim bail is set up in the application. **Application for grant of regular/interim bail of accused Abdul Gani in case FIR No. 699/2015 is therefore, dismissed.**

  
(Neelofer Abida Perveen)  
ASJ (Central) THC/Delhi  
04.07.2020

**FIR No. 288/2019**  
**PS: Sarai Rohilla**  
**State Vs. Rahul**  
**U/s 392/394/397/411/34 IPC**

04.07.2020

Present: Sh. K.P.Singh, Ld. Addl. PP for State.

Mohd. Illiyas, Counsel for accused-applicant (through video conferencing)

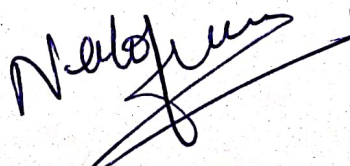
Hearing conducted through Video Conferencing.

This is an application for grant of interim bail for a period of 2 months under Section 439 CrPC filed on behalf of accused Rahul in case FIR No. 288/2019 on the ground of illness of mother.

It is contended that accused was arrested on 24.10.2019 in connection with present case and subsequently implicated in several other cases. That the accused-applicant has been granted bail in the other criminal cases. That the mother of the accused-applicant is ill and is suffering from heart problem and living with the minor sister of the accused-applicant. That the accused-applicant is the sole bread earner and due to the continued custody of the accused-applicant, the family has exhausted all their savings.

Ld. Addl. PP on the other hand submits that the accused-applicant does not have clean antecedent and is likely to indulge in offence of similar nature and would abscond if interim bail is granted.

Heard.

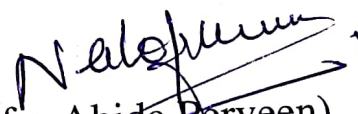


Medical documents, as per report of the IO from RML Hospital have been verified mentioning that "coronary artery disease – Angina is to be ruled out in the patient as per these records". As per the OPD card of RML hospital, <sup>or</sup> On 03.06.2020, the mother of the accused-applicant consulted as an OPD patient and was advised medication for three months and was referred to general surgery for further consultation and advised diagnostic test. Alongwith the application there is one OPD card annexed of Deen Dayal Upadhaya hospital dated 16.05.2020. Though as per report DDU hospital denied any treatment or <sup>or</sup> admission of mother of the accused-applicant, it is pertinent that as per the OPD Card, mother of the accused-applicant was referred to higher centre GB Pant / Safadarjung Department cardiology for further evaluation and management and it also bears endorsement of father of the accused-applicant that the mother of the accused-applicant is being taken to better hospital for treatment. However, there is no such document that suggests hospitalization for the purposes of any kind of treatment at present. Besides the accused-applicant, father of the accused-applicant is capable of accompanying the mother of the accused-applicant for treatment as OPD Patient.

Interim bail can alone be granted in compelling circumstances and in such extraordinary exigencies where personal presence of the accused would be absolutely indispensable. In the case in hand, however, the personal presence of the accused-applicant is not

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absolutely necessary as no hospitalization has been advised, and as father of the accused-applicant is there in the family to take care of the mother of the accused-applicant, **no ground is made out to grant interim bail to the accused-applicant Rahul in case FIR No. 288/2019 on the ground of illness of mother. The present application is accordingly <sup>na</sup> ~~is~~ dismissed.**

  
(Neelofer Abida Rerveen)  
ASJ (Central)THC/Delhi  
04.07.2020

**FIR No. 243/2017**

**PS: Burari**

**State Vs. Feroz**

**U/s 302/201/120B/34 IPC**

04.07.2020

Present: Sh. K.P.Singh, Ld. Addl. PP for State.

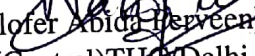
Sh. Javed Alvi, Counsel for accused-applicant (through video conferencing)

Hearing conducted through Video Conferencing.

This is an application for grant of interim bail for 45 days under Section 439 CrPC filed on behalf of accused Feroz in case FIR No. 243/2017 invoking guidelines issued by the High Powered Committee of Hon'ble High Court of Delhi dated 18.05.2020.

Arguments heard on behalf of the accused-applicant. Ld. Addl. PP seeks some time to go through the record.

For further consideration and orders, put up on **07.07.2020**.

  
(Neelofer Abida Herveen)  
ASJ (Central)THC, Delhi  
04.07.2020

**FIR No. 117/2018**

**PS: Crime Branch**

**State Vs. Alam Sheikh etc. (Jaswinder Singh @ Ladi)**

**U/s 18 & 29 NDPS Act**

04.07.2020

**ORDER**

This is an application for grant of regular bail filed on behalf of accused Jaswinder Singh @ Ladi in case FIR No. 117/2018.

Ld. Counsel for the accused-applicant submits that accused-applicant has been falsely implicated in the present case. That accused-applicant has nothing to do with the alleged recovery in the present case. That nothing incriminating has been recovered from his possession or at his instance. That accused-applicant was not apprehended at the spot rather lifted from his house. That there is no compliance with Section 41 of the Act as prosecution has failed to file alongwith the chargesheet any search authorization nor sought time for filing of the same in a supplementary chargesheet. That there is no document relied upon by the prosecution to indicate that search authorization was taken in writing qua the present case from the ACP Sh. Aditya Gautam. That the alleged secret informer approached the IO of the present case SI Rakesh Kumar at about 4.30 am and disclosed about secret information regarding accused-applicant and

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co-accused at about 6.30 – 7.30 am, however, the raiding party reached the spot at about 6.15 am. That there was ample time with the IO to produce the secret information before the Nearest Magistrate or Gazetted Officer. That as per FSL report, the percentage of purity of the contraband comes out to 2.52% which comes out to be 378 grams ( Opium 25 grams to 2.5 kgs) which is less than commercial quantity. That there is no compliance of Section 50 of the NDPS Act. That earlier also accused-applicant was granted interim bail and he has surrendered in terms thereof. That rigors of Section 37 of the Act are not attracted to the present case. Ld. Counsel for the accused-applicant has relied upon following judgments:-

1. **State of Punjab v. Balbir Singh** AIR 1994 SC 1872;
2. **D.R.I. v. Manjinder Singh** CrI. L. P. No. 310/2013 dated 23.01.2014;
3. **Arif Khan @ Agha Khan v. State of Uttrakhand** 2018 (2) RCR Cri. 931;
4. **Vijaysinh Chandubha Jadeja v. State of Gujarat** AIR 2011 SC 77;
5. **Gurjant Singh @ Janta v. State of Punjab** 2013 (13) SCALE 295;
6. **N. C. B. v. Sukhdev Raj Sodhi** AIR 2011 SC 1939;

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7. **State of Rajasthan v. Parmanand & Anr.** AIR 2014 SC 1384;
8. **State v. Vicky** CrI. L. P. 143/2017 decided on 13.09.2019; Reply is filed.

Ld. Public Prosecutor on the other hand, contends that the rigors of Section 37 of the Act are attracted as the case pertains to commercial quantity of contraband. That the search, seizure and arrest are all made upon due compliance of <sup>all the</sup> procedural safeguards. <sup>or</sup>

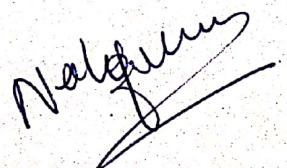
Arguments heard.

The case of the prosecution is that secret information was received on 05.05.2018 that one Ibrahim resident of Malda, West Bengal supplies opium from Jharkahand, West Bengal to areas of Punjab and Uttar Pradesh alongwith their trusted accomplice Alam Sheikh and truck driver Shakil and the said Ibrahim regularly supplies opium to Jasvinder @ Ladi at his dhaba under the name and style of Virk Jack Dhaba near Jinjhana, UP along Shamli- Karnal Road and that Alam Shekh alongwith truck driver Shakil in truck no. UP 15BT 9511 arrived at the said Dhaba of Jasvinder last night and today to supply opium to one party the said Jasvinder, Alam Shekh and Shakil shall come near Sant Mother Teresa Home, Nirmal village, Majnu Ka Tila, Timarpur, Outer Ring Road. The secret informer was produced before immediate senior police officer by SI Rakesh Kumar who

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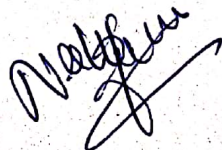
further conveyed the secret information to the ACP concerned. The secret information was thereafter reduced into writing in compliance with Section 42 of the NDPS Act vide DD No. 2 at 4.45 am and put up before immediate official superior Inspector Sunil Jain who forwarded the same to ACP. Raiding party was constituted under the directions of ACP, IGIS, and Crime Branch and on the orders of Inspector/SHO, consisting of SI Rajesh Kumar, ASI Hanuman Singh, ASI Mahesh Kumar, ASI Rajinder, HC Ram Dass and Ct. Om Prakash. The raiding party reached at around 6.15 am near Sant Mother Teresa Home, Nirmal Hirday, Manju Ka Tila, Timarpur, Outer Ring Road and asked the public persons to join the proceedings of the raiding party but they refused expressing their genuine difficulties and notice could not be served due to paucity of time. The raiding party took its positions alongwith the secret informer and at around 6.25 am one Eicher Truck No. UP 15BT 9511 approached from Kashmere Gate side and after taking a u-turn at halted in front of Sant Mother Teresa Home, Nirmal Hirday out of which one person deboarded from the conductor side and stood in front and was identified by the secret informer as accused Jasvinder@ Ladi. Another person followed him who was identified as accused Alam Sheikh and the driver of the truck was identified as accused Shakil and thereafter the secret informer left the spot. Accused Shakil took

A handwritten signature in black ink, appearing to read 'Nalgunu', with a horizontal line underneath it.

out one packet wrapped in white plastic from the cabin of the truck and handed over the same to accused Alam Sheikh and himself got down of the truck. Accused Jasvinder @ Ladi alongwith accused Alam Sheikh who was holding the parcel started walking and reached the side of the Ring Road and started waiting for someone. After 2-3 minutes accused Alam Sheikh handed over the packet to accused Jasvinder @ Ladi and after some 2-4 minutes both of the them started walking towards the truck and on seeing them the driver of the truck boarded the truck and sat on the driver's seat. Accused Jasvinder @ Ladi handed over the packet to the driver of the truck who put it inside the cabin of the truck and accused Jasvinder @ Ladi and Alam Sheikh started to board the truck, when they were apprehended by the raiding party at about 6.45 am. SI Rajesh Kumar identified himself and the members of the raiding party and the accused were disclosed as Jasvinder Singh @ Ladi, Alam Sheikh and Shakil. The accused were told about the secret information and were informed that the police suspects that either from them or from the truck contraband is likely to be recovered. They were also informed about their legal rights pertaining to their personal search to the effect that if they so desired their search may be conducted in presence of Gazetted Officer or a Magistrate and that for their search Gazetted officer or a Magistrate can also be called at the spot and that before their search is

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conducted, they are entitled to search the officials of the raiding party as also the innova car. They were also explained the meaning of Gazetted officer or Magistrate. Accused Jasvinder @ Ladi and accused Shakil told that they were illiterate and can only sign, accused Alam Sheikh said that he can speak and understand Hindi but he can read and write in English. Notices in terms of Section 50 of NDPS Act were prepared in respect of accused Jasvinder @ Ladi and Shakil in Hindi and in respect of accused Alam Sheikh in English and the original was served upon them. The contents thereof were read over and explained to accused Jasvinder @ Ladi and Shakil and both of them refused to exercise their rights and SI Rajesh Kumar wrote down their refusal as got recorded by them on the carbon copy of the notice and read over the reply recorded and they signed the same. Accused Alam Sheikh went through the contents of notice and refused to avail the legal rights and recorded his refusal in his own hand in English under his signatures. The SI Rajesh Kumar asked several public persons present at the spot to join the proceedings but they went away explaining their difficulties. All the three accused were searched by SI Rajesh Kumar and no contraband was recovered from their person. Personal search memo were accordingly prepared. Thereafter SI Rajesh Kumar searched Eicher Truck No. UP 15BT 9511 and in the cabin found one packet wrapped in white plastic tied



with thin rope which were opened and the contents thereof were checked which contained one round transparent plastic jar with red colour lid and inside was found one transparent polythene bag secured with a thick rope containing black colored sticky substance. The thin rope was untied and the sticky substance was checked on the field testing kit and from its odour and its appearance, it was found to be opium. It was weighed with the polythene and the plastic jar on the electronic weighing machine and its total weight was 15 kgs. Two samples of 100 grams each were taken out separately and put in polythene bags and were secured with rubber band and put in a white cloth and turned into a parcel. The substance was sent to FSL for examination and as per Report dated 07.08.2018 is found to contain Morphine 2.52 %.

Ld. Counsel for the accused-applicant has impressed upon the court that the twin requirements<sup>na</sup> of Section 37 of the NDPS Act are satisfied as on the face<sup>na</sup> of the record and evidence lead till date it is duly reflected that there has been non-compliance of Section 41 of the Act.

Section 41 of the NDPS Act provides that Metropolitan Magistrate or a Magistrate of the first class, ~~who~~<sup>na</sup> may issue warrant for the arrest of any person in connection with offence punishable under the NDPS or warrants for search of building, conveyance or

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space whether by day or night for the purposes of the NDPS Act and it is only Gazetted Officers of the Departments as mentioned in Sub Section (2) of Section 41 of the Act, who may issue authorizations for arrest and for search of building, conveyance or place by day or night upon a reasonable belief of contravention of provisions of the Act/ Rules which if founded upon information given by any person is required to be taken down in writing.

Ld. Counsel for the accused-applicant has built up case for violation of provisions of Section 41 of the Act as there is no written authorization and the oral authorization of the ACP is to Inspector Sunil Jain and not SI Rakesh Kumar, who apprehended the accused effected the alleged recovery and searched the vehicle and seized the contraband. Whether in a given case the mandatory procedural safeguards have been duly complied with or violated is a matter of trial and appreciation of evidence. Section 41 only confers the powers for issuance of warrants and authorization for arrest and search for the purpose of proceedings under the NDPS Act. In itself it does not lay down any condition nor prescribes the procedure to be followed in the event of arrest, search and seizure for contraventions under the Act. The procedure is spelled out in the ensuing Sections, falling in Chapter V of the NDPS Act. Section 42 first defines who is an empowered officer under the Act and elaborates on the powers of

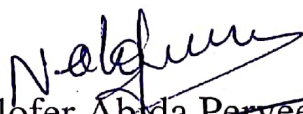
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entry, search, seizure and arrest without warrant or authorization thereby indicating that warrant/authorization is not a must under all circumstances for the exercise of the powers of entry, search, seizure and arrest by the empowered officer. The Section provides that the empowered officer when acting on a secret information after reducing the secret information into writing and putting up the same before the immediate official may enter and search any building conveyance or enclosed place in between sunrise and sunset. SI Rakesh Kumar being an officer above the rank of constable belonging to the Narcotic Cell is an <sup>empowered</sup> officer in terms of Section 42 of the Act and was acting on a secret information which was reduced into writing by him and put up before the immediate official superior. The secret information is received prior to sunrise but all the proceedings are conducted by the empowered officer of entry, search and seizure between sunrise and sunset. On such material therefore a satisfaction at this stage is incapable of being arrived at that the accused has not committed the offence, even if the accused has clean antecedents. So far as compliance of Section 50 of NDPS Act is concerned, the recovery is not alleged to have been effected either from the personal search or from any bag/jhola contraption being carried by the accused but from the search of the vehicle Eicher Truck No. UP 15 BT 9511, applicant being one of its occupants which search and seizure is effected

*Rakesh Kumar*

between sunrise and sunset by an empowered officer acting on a secret information reduced into writing and put up before the immediate official superior. Trial is going on. The judgments relied upon are distinguishable on facts.

In such circumstances, no ground is made out to grant regular bail to the accused-applicant Jaswinder Singh @ Ladi. The present application for grant of regular bail filed on behalf of accused Jaswinder Singh @ Ladi in case FIR No. 117/2018 is therefore dismissed as case pertains to recovery of commercial quantity of contraband and the twin requirements of Section 37 of the Act are not satisfied.

  
(Neelofer Abida Perveen)  
ASJ (Central) THC/Delhi  
**04.07.2020**