

(VIA VIDEO-CONFERENCING)

* IN THE HIGH COURT OF DELHI AT NEW DELHI

Reserved on : 06.07.2021

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Pronounced on : 30.07.2021

+ BAIL APPLN. 761/2021

PETER WOLLEDGE

.....Petitioner

Through: Mr. Archit Kaushik, Advocate

Versus

NARCOTICS CONTROL BUREAU

..... Respondent

Through: Mr. Subhash Bansal, Sr. Standing
Counsel for NCB with Mr.
Shashwat Bansal, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

RAJNISH BHATNAGAR, J.

1. The present bail application has been filed under Section 439 Cr.P.C. seeking bail in case FIR No. 138/2017, under Section 20(B)(II)(C), 23 & 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

2. Briefly stated the facts of the case are that on 04.11.2016, on receiving the secret information, a reading team reached IGI Airport and the accused Nympha De Jesus detained at immigration was produced. The

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present petitioner i.e. Peter Wolledge reported to have cleared the immigration and boarded the flight to Bangkok as the LOC issued against him was discrete. In the presence of independent witnesses, the bag of the accused Nympha was searched which found to be containing personal belongings, books etc. but from the lower and upper side of books, charas/hashish was recovered and total weight of the same came out to 2.7 kg.

3. Accused Nympha in her statement U/s 67 accepted her complicity and conspiracy with present petitioner Peter Wolledge, who stated that accused Peter is her boyfriend and living with him at Haripur, Manali. She was apprehended at IGI Airport, however, the co-accused i.e. the present petitioner left to Bangkok and the money for purchase of ticket from New Delhi to Bangkok was arranged by petitioner Peter and they were having live-in relationship and also booked their luggage together. The present petitioner was detained at Bangkok airport and deported back to India. He returned to India on 05.11.2016 and in his statement U/s 67 stated that all the checked in baggage belonged to him but checked in by Nympha and were added in the ticket of Nympha, and the said charas belonged to him. After the completion of investigation, the complaint was filed.

4. I have heard the Ld. counsel for the petitioner, Ld. Sr. Standing counsel for the NCB (respondent) and have also perused the records of this case.

5. It is submitted by the Ld. counsel for the petitioner that the contraband is not recovered from the petitioner. It is further submitted by the

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Ld. counsel for the petitioner that the NCB has neither seized any CCTV footage of the immigration area nor lifted finger prints on the books and even no efforts were made to arrest the accused Eddie Robert who had allegedly given books to the co-accused. He further submitted that the statement recorded by the NCB was retracted by the petitioner as the same was given under threat and influence of the NCB officials. He further submitted that the members of the raiding party were carrying mobile phones with them but no video recordings of the entire search and seizure were made. It is further submitted by the Ld. counsel for the petitioner that the petitioner is a British Citizen and has been falsely implicated. He further submitted that the chances of false implication of the petitioner cannot be ruled out as the independent witnesses have stated that they were told that the seized material was Charas/Hashish. He further submitted that the independent witnesses have stated in their statement that they had signed on white papers which were pasted on the samples and the same cast doubt on the case of the NCB.

6. On the other hand, it is submitted by the Ld. Sr. Standing Counsel for the NCB (respondent) that there is a recovery of 2.7 Kg. of Charas when the co-accused was about to board the flight for Bankok. It is further submitted by him that by that time the petitioner had already boarded the flight to Bankok but he was deported back. He further submitted that the petitioner and the co-accused have disclosed the entire facts and admitted their complicity in the commission of the crime and their statements U/s 67 NDPS Act are admissible at this stage. He further submitted that the

recovery is of commercial quantity and there is embargo of Section 37 of the NDPS Act over the release of the petitioner/accused on bail.

7. In the instant case, as per the Status Report, charges have already been framed on 25.03.2021 and the same has not been challenged till date by the petitioner. The testimonies of the public witnesses cannot be analyzed at this stage, as their veracity will only be tested during the course of the trial.

8. In the present case, as per the NCB, the petitioner was found trafficking 2.7 Kgs. of Charas concealed in 3 Books and false cavity of base of Bag which were all found in the baggage bearing Tag No. 0098782873/BKK and said trafficking of Charas from India to Bangkok was being done in conspiracy with his live-in partner & co-passenger Ms. Nympha De Jesus (Philippines National) who was also arrested and charged with the said offences.

9. As per the NCB (respondent) the documents pertaining to the present petitioner were also found from the registered baggage. Charges have already been framed and the same have not been challenged. Recovered quantity is a commercial quantity and rigours of Section 37 of NDPS Act applies. It cannot be said that there is no other material with the NCB except the statement U/s 67 of NDPS Act. There are two panch witnesses, baggage of the petitioner has been recovered and some documents relating to the petitioner have also been found in the baggage, therefore, in these circumstances, no ground for bail is made out. The bail application is, therefore, dismissed.

10. Nothing stated hereinabove shall tantamount to the expression of any opinion on the merits of this case.

RAJNISH BHATNAGAR, J

JULY 30, 2021

Sumant

