

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No(s).1273/2021
(@Diary No.24622/2017)

SANJEEV CHANDRA AGARWAL & ANR.

APPELLANT(s)

VERSUS

UNION OF INDIA

RESPONDENT(s)

O R D E R

Mr. Kailash Vasudevan, learned senior counsel appeared for the petitioners and Mr. S.V. Raju, Additional Solicitor General appeared on behalf of the respondent.

Delay condoned.

Leave granted.

We are inclined to set aside the impugned order of the High Court directing framing charges under Sections 27-A and 29-A of the Narcotic Drugs And Psychotropic Substances Act, 1985 (for short "NDPS Act") against the appellants, namely, Sanjeev Chandra Agarwal and Rajiv Sethi.

The factual position is that no narcotic drugs or psychotropic substances were recovered from the premises of the two appellants. As per the prosecution, 4 kilograms of Acetic Anhydride (Controlled Substance) was allegedly found from the premises of the appellants located at Gyan Scientific Agency, Varanasi. The High Court was not correct in relying on the statements made by other accused under Section 67 of the NDPS Act, in light of the judgment of this Court in *Tofan Singh Vs. State of Tamil Nadu*, (2021) 4 SCC 1. It is

pointed out that the charges under Sections 9-A and 25 of the NDPS Act have been framed and to this extent there is no challenge and dispute.

While not interfering with the order directing framing of charges under Section 9-A and 25, direction in the impugned order to frame charges against the two appellants namely, Sanjeev Chandra Agarwal and Rajiv Sethi under Sections 27-A and 29-A of the NDPS Act cannot be sustained and is set aside.

The appeal is allowed in the aforesaid terms.

We clarify that the bail granted to the appellants has not been cancelled and we have not commented and made any observations on merits of the allegations in the charge-sheet.

Pending application(s), if any, stand disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(BELA M. TRIVEDI)

NEW DELHI
25TH OCTOBER, 2021

ITEM NO.23 Court 16 (Video Conferencing) SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

SPECIAL LEAVE PETITION (CRIMINAL) Diary No(s). 24622/2017

(Arising out of impugned final judgment and order dated 04-11-2016 in CRLR No. 2858/2007 passed by the High Court of Judicature at Allahabad)

SANJEEV CHANDRA AGARWAL & ANR. Petitioner(s)

VERSUS

UNION OF INDIA Respondent(s)
(IA No. 77021/2017 - CONDONATION OF DELAY IN FILING
IA No. 77024/2017 - EXEMPTION FROM FILING O.T.)

Date : 25-10-2021 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s) Mr. Kailash Vasudevan, Sr. Adv.
Mr. Anil Aggarwal, Adv.
Mr. Tushar Bakshi, AOR

For Respondent(s) Mr. Tushar Mehta, SGI
Mr. S.V. Raju, ASG
Mr. Rajat Nair, Adv.
Mr. Kanu Agrawal, Adv.
Ms. Sarica Raju, Adv.
Mr. Mehul Gupta, Adv.
Mr. Arvind Kumar Sharma, Adv.

Mr. B. V. Balaram Das, AOR

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, stand disposed of.

(BABITA PANDEY)
COURT MASTER (SH)

(ANITA RANI AHUJA)
ASST. REGISTRAR

(Signed order is placed on the file)