

IN THE COURT OF SPECIAL JUDGE FOR N.D.PS CASES FOR
GREATER BOMBAY AT MUMBAI

ORDER BELOW EXHS.38

IN

N.D.PS. SPL. CASE NO. 344/2021

Arjun Amarjeet Rampal ..Applicant.

V/s.

NCB, MZU,
Mumbai ..Respondent.

ALONG WITH

ORDER BELOW EXH.39

IN

N.D.PS. SPL. CASE NO. 344/2021

Gabriella Kyriacos Demetriades ..Applicant

V/s.

NCB, MZU,
Mumbai ..Respondent

Appearances:-

Ld. Adv. Mr Ayaz Khan for applicants.

Ld SPP Mr Atul Sarpande for NCB.

Coram :H.H.J The Special Judge (NDPS)

Shri. V.V. Vidwans (CR No.43)

Date : 2.7.2021.

COMMON ORDER

1. These applications have been filed for return of property u/s.451 of Cr.PC on behalf of the applicant Arjun Rampal (Exh.38) and applicant/ accused Ms. Gabriella Kyriacos Demetriades (Exh.39). Say of respondent/ NCB was called and a combined say is filed by Ld SPP Mr. Sarpande through IO Mr. Kiran Babu vide Exh.48 covering present applications and application filed at Exh.27. Seen and considered the

say.

2. I have heard Ld Counsels for both sides.

3. It is submitted by Ld Counsel for the applicant with reference to application at Exh.38 that, the applicant Arjun Rampal is a renowned film actor, producer and model, as per description given in para 4 of the application. He is using electronic items i.e. mobile phones and MacBook laptops for his professional and personal use. Lot of professional data is saved in the pen-drive and disk. It is submitted that, detailed description of the mobile phones and MacBook is given in para 8 of the application. It is submitted that, the officers of NCB had made investigation in relation to consumption of drugs by several bollywood celebrities and certain recoveries were made pursuant to the said investigation. On 17.10.2020 one Agisilaos Demetrias was arrested by the NCB. He is brother of the partner of the applicant. During investigation on 9.11.2020, officers of NCB have conducted search at the residence of the applicant and recovered some medicines- one strip partly consumed Ultracet Tablets and one strip partly consumed Clonotril Tablets. They had also seized the mobile phones and laptop as described in para 8 of the application as per seizure panchanama dated 9.11.2020, copy of which is annexed with the application vide Exh.A. Statement of the applicant is recorded u/s. 67 of NDPS Act on 9.11.2020. Officer of NCB have completed investigation in the case and charge sheet has been filed against accused persons.

4. Similar pleadings are made in application at Exh.39, wherein it is submitted that, the applicant Ms Gabriella Demetriades is partner of the actor Arjun Rampal. She was also model in the industry.

She is also in the business of women garments. She is using electric items like mobile phones and Macbook for her professional work. Lot of professional data is saved in the laptop and McBook. It is submitted that, detailed description of the mobile phones and McBook is given in para 8 of the application. It is submitted that, the officers of NCB had made investigation in relation to consumption of drugs by several bollywood celebrities and certain recoveries were made pursuant to the said investigation. On 17.10.2020 one Agisilaos Demetrias was arrested by the NCB, who is brother of the applicant in application Exh.39. During investigation on 9.11.2020, officers of NCB have conducted search at the residence of the applicant and recovered some medicines- one strip partly consumed Ultracet Tablets and one strip partly consumed Clonotril Tablets. They had also seized the mobile phones and laptop as described in para 8 of the application as per seizure panchanama dated 9.11.2020, copy of which is annexed with the application vide Exh.A. Statement of the applicant is recorded u/s. 67 of NDPS Act. Officers of NCB have completed investigation in the case and charge sheet has been filed against accused persons.

5. In the above applications, common grounds have been taken by Ld Counsel for the applicants that, investigation in the case has been completed and charge-sheet has been filed. It will take considerable time for conducting the trial of the accused and adjudication in the matter. The mobile phones and laptops, McBook etc. of the applicants are of their day to use and contained professional data. Therefore, due to seizure of the above muddemal items, they are put in serious hardship and financial difficulties. Therefore, on various grounds stated in the respective applications, the applicants are entitled for release of the muddemal property as prayed in the applications. The

applicants are ready to abide by the conditions if any imposed by this court while allowing the applications.

6. Ld SPP Mr Sarpande for the NCB has filed common say on record. I have gone through the same. Ld SPP has strongly opposed these applications and relied on the say. He has submitted that, investigation in the case is not complete so far as financial transactions are concerned. Though charge sheet has been filed in the case, financial investigation is still going on. The NCB has arrested accused no.34 Hemant Shah in this case very recently and the NCB is contemplating filing of supplementary complaint/ charge sheet in in the case against the remaining accused persons. If the applications for releasing moveable items as mentioned above are allowed, there is every likelihood and possibility that the same will be used by the applicant in the transactions of drug mafia and other related businesses. Therefore, he submitted that, considering the gravity of the matter and seriousness of the offence involved, the applications are liable to be rejected.

7. After considering the grounds stated in the application and submissions made before the court, it is clear from the record that, the investigation in the case has been completed and charge sheet/ complaint has been filed. It will take considerable time for conducting the trial in the case and adjudication of the matter. So far as financial investigation in the matter is concerned, it may be still going on but the data in the mobile phones and laptop ie. Mcbook and pen drive etc. is already stored/saved during investigation in digital form/soft copies and same can be always available for the purpose of investigation and at the trial of the case.

8. Another aspect which needs to be taken into consideration while deciding these applications is in respect of possibility of action to be taken in respect of liability and confiscation of illicit drugs, substance, plants, articles and conveyance etc u/s. 42,60,62 and 63 of NDPS Act. In the present case, only there has been action by the IO to seize the mobiles of the applicants but the prescribed procedure as per provisions of Sec.68(B)(e) r/w. 68(F) of the Act is not followed as there is no formal seizure or confiscation of bank accounts as required by law by making order of seizure of such property with due approval from/ prior permission from the competent authority within the period of 30 days u/s. 68(F)(1)(2) of NDPS Act.

9. Under these circumstances, I am of the opinion that, reserving the right of the prosecution to proceed against the accused according to law in respect of mobiles phones, laptop etc, as a bove, it will be just and proper to allow these applications seeking relief to release of muddemal subject to giving an undertaking before the court supported by affidavits, which will serve the purpose of the prosecution. Hene, following order:-

ORDER

1. Application (Exh.38) is hereby allowed.
2. Articles--(1) I-phone 11 Pro Max,(2) I-phone 11 Pro Max (3) Macbook Pro of dark metallic gray colour, (4) Leef Pen drivers, silver colour, I-phone connector and (5) San Disk Red & Black colour pendrive, as mentioned in para 8 of the application (Ex.38),be returned to applicant Arjun Amarjeet Rampal on his executing a Supurtnama” Bond of Rs.50,000/- (Rs. Fifty Thousand only).
3. Application (Exh.39) is hereby allowed.

4. Articles – (1) I-phone X, (2) Green colour I-phone and (3) Macbook Air, Silver gray, as mentioned in para 8 of the application (Exh.39), be returned to applicant Ms.Gabriella Kyriacos Demetriades on her executing a Supurtnama” Bond of Rs.50,000/- (Rs. Fifty Thousand only).
5. The above articles shall be returned to the respective applicants by obtaining undertaking incorporating following conditions:-
 - (i) The applicants shall produce the above Articles as and when required by the Court during the trial,
 - (ii) The applicants shall keep the above Articles in the same condition and shall not change it and shall not part with, sell or dispose of the articles in any way without prior permission of the Court, till disposal of the case.
 - (iii) That, the applicants to undertake and bind himself/herself to this Court to the extent of sum of Rs.50,000/- and that in case of breach of any of the above condition, he/she shall be liable to pay/ deposit an amount of Rs.50,000/- in this Court.
6. The applicants shall furnish the bond and undertaking to this Court and thereafter the articles mentioned above shall be released to him/her after their due identification.
7. The IO shall take necessary photographs of the above Articles before they are returned to the applicants for the purpose of identification at the time of trial and to submit the photographs on record of the case.
8. Authenticated copy of today’z Roznama shall be given to

Ld Counsels for both sides for information and compliance.



Date:- 2.7.2021

(V.V. Vidwans)
N.D.PS Special Judge
City Civil & Sessions Court,
Gr. Bombay (CR 43)

Dictated on: 2.7.2021 and 6.7.2021
Transcribed on: 5.7.2021 and 6.7.2021
HHJ signed on: 6.7.2021

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ ORDER.

UPLOADED ON : 6.7.2021
TIME: 1.45 pm

(NITIN V. UBALE)
SELECTION GR. STENOGRAPHER.

Name of the judge (with Court Room No.)	Shri V.V. Vidwans, Spl. Judge & Addl. Sessions Judge (C.R. 43)
Date of pronouncement of Judgment/ Order	2.7.2021
Judgment/ order signed by PO on	6.7.2021
Judgment/ order uploaded on	6.7.2021