

Sh. SUDESH KUMAR
Spl. Judge, NDPS Act.
Room No. 2-1, P. Building
Patiala House Court
New Delhi

To,
The NCB Supt.
D24, R.K. Puram, N.D.

Smita To

Case No. SC/272/18
NCB Vs Angelica Cristine De Souza

21.08.2018

Present: Sh. P.C. Aggarwal, Ld. SPP for NCB.

Accused produced from JC.

Sh. A.K. Sahu, Ld. LAC for accused is not available.

Ms. Patricia Wagner Chiarello, Minister Counsellor has appeared from Brazil Embassy alongwith Sh. Biswa Rup Singha for communicating qua accused.

Be awaited for Ld. LAC for accused.

(Sudesh Kumar, II)
Special Judge/NDPS
New Delhi/21.08.2018
Patiala House Courts
New Delhi

At 1 PM:

Present: Sh. P.C. Aggarwal, Ld. SPP for NCB.

Accused produced from JC.

Sh. A.K. Sahu, Ld. LAC for accused has not appeared despite being awaited till this time i.e. 1 PM.

Ms. Patricia Wagner Chiarello, Minister Counsellor has appeared from Brazil Embassy alongwith Sh. Biswa Rup Singha for communicating qua accused.

Copy of documents have been supplied to accused today in the Court.

Accused submits that Legal Aid Counsel Sh. A.K. Sahu who was representing her is not appearing regularly. A request has been made for change of lawyer. In these circumstances, Counsel Sh. Sumit Sharma present in the Court is hereby appointed as Amicus Curiae to represent accused in the present case.

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At this stage, it is informed by Ms. Patricia Wagner Chiarello, Minister Counsellor that accused has told her that she wants to plead guilty for the offences she is charged with as she is guilty and accepts her guilt. She is prepared to face all the consequences. Court has granted sometime to the accused to reflect upon her decision. As requested, put up at 2.30 PM.

(Sudesh Kumar II)
Special Judge/NDPS
New Delhi/21.08.2018
Patiala House Courts,
New Delhi

At 2.30 PM:

Present: Sh. P.C. Aggarwal, Ld. SPP for NCB.

Accused produced from JC.

Sh. Sumit Sharma, Ld. Amicus Curiae for accused.

Ms. Patricia Wagner Chiarello, Minister Counsellor has appeared from Brazil Embassy alongwith Sh. Biswa Rup Singha for communicating qua accused.

Ms. Patricia Wagner Chiarello, Minister Counsellor submits that accused has told her from the very beginning that she is guilty of the offences charged with and she is regretting for the same.

After hearing the submissions on behalf of both the parties in the considered opinion of this Court, the material on record, there is prima facie sufficient to frame charges against accused for contravention of provision of section 8 (c) of NDPS Act and committed offences punishable U/s 21 (c) and 23 (c) of NDPS Act.

Ld. Amicus Curiae for the accused has also conceded to the framing of charges for the said offences.

Hence a formal charge has been framed against accused for the abovementioned offences. The charge has been read over to the accused in her Language through Ms. Patricia Wagner Chiarello to made her understand.

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The accused is asked through Ms. Patricia Wagner Chiarello whether she wants to plead guilty or claim trial to which she replied that she wants to plead guilty and do not claim a trial.

The accused has pleaded guilty in the settlement of charge itself. She has also mentioned about the circumstances in which the offences were committed and the mitigating circumstances which the Court may take into consideration while sentencing her. She submits that she has remained in custody for 3 months in the present case.

As per the case of prosecution, on 14.05.2018, on the basis of secret information, the accused was apprehended at IGI Airport, New Delhi when she arrived from Doha. During inquiries, she was admitted in the Safdarjung Hospital from 14.05.2018 to 20.05.2018 where she eased out 106 capsules, the said capsules were examined and found concealed 930 gms of cocaine.

In view of the voluntary plea of guilt of the accused, she is convicted for contravention of provision of section 8 (c) of NDPS Act and offences punishable U/s 21 (c) and 23 (c) of NDPS Act.

Ld. SPP for NCB Sh. P.C. Aggarwal has contended that in view of the gravity of the offences appropriate sentence may be imposed on the convict.

On the other hand, Ld. Defence Counsel has argued that the convict is in family way. She has a family consisting of husband and her three children. She may be dealt with leniently. It is stated by Ms. Patricia Wagner Chiarello that convict was not aware about her pregnancy during her apprehension and she came to know about the same during her medical tests in Safdarjung Hospital.

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The purpose of punishment in a criminal case is that the person found guilty of committing the offence realizes his/her fault and is deterred from repeating such acts in future. In determining the question of proper punishment in a criminal case, the court has to weigh the degree of culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is, what is needed in such a case; a balance between the interest of the individual and the concern of the society: weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined.

Thus taking into consideration the entire facts and circumstances, nature of offences, clean antecedents, social and economic status of the convict and the reason for which she appears to have committed the offences, this court hereby sentences the convict to undergo simple imprisonment for a period of 10 years for the offence U/s 21 (c) and 10 years for the offence U/s 23 (c) of NDPS Act and to pay a total fine of Rs. 1,00,000/- and in default thereof to undergo simple imprisonment for a period of one month. Both the sentences to run concurrently. Benefit of section 428 Cr. PC is given to convict. Fine not paid.

The case property, samples and concealing material stand confiscated to the NCB to be disposed of as per rules.

Copy of this judgment and sentence be given to the convict, Ld. Amicus Curiae and Ms. Patricia Wagner Chiarello.

A sum of Rs. 25,000/- is fixed as fees for Sh. Sumit Sharma, Ld.

Amicus Curiae.

File be consigned to Record Room.

(Sudesh Kumar II)

Special Judge/NDPS

New Delhi/21.08.2018's

New Delhi

Received:

Chiarello

