

***NCB Vs Md. Akhtar Hussain & Anr***

**IN THE COURT OF SH. SUDESH KUMAR II : SPECIAL JUDGE - NDPS  
PATIALA HOUSE COURTS : NEW DELHI**

**NCB Vs Md. Akhtar Hussain & Anr  
Case No. SC/8690/16**

28.03.2018

Present: Sh. Sashwat Bansal, Proxy for Ld. SPP for NCB.

Accused Mohd. Amir Khan is PO.

Accused Mohd. Akhtar Hussain present on bail with Proxy Counsel

Sh. Afsar Ali.

1. Perusal of the file reveals that the accused Mohd. Akhtar Hussain is facing trial for the contravention of rule/order U/s 9 A and offence punishable u/s 25 A and 29 of NDPS Act.
2. Today, matter is fixed for final arguments, however, at the very outset, Proxy Counsel for accused Mohd. Akhtar Hussain submits that accused wants to plead guilty for the offences he is charged with and he is prepared to face all the consequences and his statement may be recorded. Court has granted sometime to the accused to reflect upon his decision and he has stated before the court that he wishes to stick by his decision to plead guilty. In view of the same statement of accused has been recorded separately in which he has pleaded guilty. He 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 him. The convict Mohd. Akhtar has remained in custody for 1 year 3 months and 20 days in the present matter.

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3. As per the case of the NCB, on 20.10.2012 at about 10:10 hours at Indira Gandhi Airport, terminal ID, Gate No. 3, New Delhi, accused Mohd. Akhtar Hussain was apprehended and 29.500 kg. of 'pseudoephedrine' was recovered in the luggage being carried by him. It is also alleged that on or before 20.10.2012, accused Mohd. Akhtar Hussain alongwith co accused Mohd. Amir Khan entered into a criminal conspiracy to illegally transport 'pseudoephedrine', a controlled substance from New Delhi to Guwahati and pursuant to the aforementioned conspiracy on 20.10.2012 at about 10:10 hours at Indira Gandhi Airport, terminal ID, Gate No. 3, New Delhi, they were apprehended while attempting to transport 'pseudoephedrine' from New Delhi to Guwahati and 29.500 kg. of 'pseudoephedrine' was recovered from Mohd. Akhtar and 30.500 kg. from Aamir Khan concealed in their respective suitcases.
4. In view of the voluntary plea of guilt of the accused Mohd. Akhtar Hussain, he is convicted for the contravention of rule/order U/s 9 A and offence punishable u/s 25 A and 29 of NDPS Act.
5. Proxy for Ld. SPP for NCB has contended that appropriate sentence may be imposed on the convict.
6. Proxy Counsel for convict has argued that the convict belongs to the poor strata of the society and he got involved in the present case due to extreme poverty. It is stated that convict is unmarried. He was only 19 years of age on the date of incident. His father has expired in 2013. He has old aged mother to look after. He has one elder brother and two sisters. He is only 10<sup>th</sup> pass and was driving 'autorikshaw' in Manipur. He was only a carrier. Proxy

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Counsel for convict prays for mercy and requests that a lenient view may be taken. The convict was not previously involved in any other case. The convict undertakes not to indulge in any illegal activity in future.

7. I have given careful consideration to the submissions made by the Ld. Counsels. Dealing with the issue of sentencing, the Hon'ble Supreme Court in another case titled and reported as **Karamjeet Singh Vs. State (Delhi Admn.) (2001) 9SCC 161** has made the following observations:

***Punishment in criminal cases is both punitive and reformative. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformative aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. 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. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead the life of a normal, useful member of society and make his***

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***contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.***

8. The aforementioned judicial dicta therefore makes it clear that the sole purpose of punishing an offender is not retribution alone and that the courts while sentencing an offender must make an attempt, within the parameters of the law, to afford an opportunity to the offender to reform himself/herself and lead the life of a normal, useful member of society. In the present case, the convict has no previous criminal antecedents and it does appear from the totality of the attendant circumstances and material on record that he is not a hardened criminal. He might have been forced due to his economic condition to indulge in the illegal trafficking of controlled substance. No doubt poverty is not a justification for commission of crimes but in the considered opinion of this court, imposing a harsh sentence will also not subserve the interests of justice. The recovery is of a controlled substance and also not of commercial quantity. Thus taking into consideration the nature of offences and social as well as economic status of the convict, his age at the time of commission of offence and the reason for which he appears to have committed the offences, this court hereby sentences the convict Mohd. Akhtar Hussain for the period already undergone by him and to pay a fine of Rs. 10,000/- (Ten Thousand) and in default thereof to undergo simple imprisonment for a period of one month.

9. The convict Mohd. Akhtar Hussain is directed to furnish bond U/s 437 A Cr. PC in sum of Rs. 20,000/- with one surety in the like amount. He seeks some time for

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depositing fine amount and furnishing bond U/s 437 A Cr. PC. As requested, put up for same on 09.04.2018 at 2 PM.

10. Copy of this judgment and sentence be given to the convict.

**Announced in the open Court  
on this 28<sup>h</sup> day of March, 2018**

**(Sudesh Kumar II )  
Special Judge: NDPS/New Delhi**