

**Ahmed Vs. State**

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**Court :** Delhi

**Decided On :** Apr-19-1993

**Reported in :** 1993(26)DRJ277

**Judge :** Sat Pal, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 439

**Appeal No. :** Criminal Miscellaneous (Main) Appeal No. 3051 of 1992

**Appellant :** Ahmed

**Respondent :** State

**Advocate for Pet/Ap. :** J.P. Suhag and; Raman Sawhney, Advs

**Judgement :**

**Sat Pal, J.**

(1) This is a petition for release of the petitioner on Bail under Section 439 of the Criminal Procedure Code. The petitioner is alleged to have been found in possession of 50 grams of smack.

(2) It may be relevant to point out here that the petitioner had earlier moved a petition bearing No.Crl.M(M)2204/92 for bail which was dismissed by a learned Single Judge of this Court vide order dated 25th August, 1992. The relevant

portion from the aforesaid order is reproduced hereinbelow:-

'IN view of the provisions of Section 37 of the Ndps Act and keeping in view the observation of their lordships of Supreme Court in Kishan Lal: Case I do not think present case is a fit case for bail. I do not see any force in the present application. It is hereby rejected.'

(3) Mr. Suhag, the learned counsel appearing on behalf of the petitioner, however, submitted that after the dismissal of the earlier petition for bail, the challan has since been filed and the petitioner has been supplied with copies of Rukka, seizure memo etc. and relying on those documents the present petition has been filed. The learned counsel drew my attention to the 'Rukka' wherein it has been stated that the police party reached behind premises No.59, G.B. Road, Delhi but at the end of the Rukka, the premises have been shown as behind premises No.60, G.B. Road, Delhi. He also pointed out a discrepancy that as per Rukka, the petitioner was apprehended at 3.30 Pm but in terms of statement of the S.H.O. he reached the spot at 3.40 PM. The learned counsel further submitted that in the present case there was a violation of Section 55 of Narcotic Drugs and Psychotropic Act, 1985 (in short Act) in as much as the Rukka shows that the stamp of the 1.00. has been affixed on C.F.S.L. form and the Officer in charge of the Police Station had not affixed his own seal. In support of his contention he placed reliance on a judgment of this Court in the case of Pradeep Kumar v. State, 1990(1) Cha CrI. 69.

(4) The petition has been strenuously opposed by Mr. Raman Sawhney, the learned counsel for the State. He submitted that the petitioner was apprehended behind premises No.60 as mentioned in the Rukka. As regards premises No.59 mentioned in Rukka, he submitted that at that premises one Police Officer was deputed to watch and as such there is no discrepancy. He also pointed out that though the petitioner was apprehended by the police party at 3.30 Pm, but meanwhile Sho, Kamla Market reached the spot at 3.40 Pm, thus there is no discrepancy on this aspect also. The learned counsel also drew my attention to the report under Section 173 Cri. Procedure Code wherein it has clearly been stated that S.I. affixed his stamp (S.C.T.) on both pull and as and Shri Dipender Pathak, ACP/SHO, Kamla Market put his signatures. It has also been stated therein that

C.F.S.L. form and pull and as were deposited in Malkhana by the S.H.O. himself.

(5) I have given my thoughtful consideration to the submissions made by the learned counsel for the parties and I have also perused the lower court's file. I, however, do not find that at this stage there are reasonable grounds to believe that the petitioner was not guilty of the offence. Accordingly, the petition is dismissed.

(6) The lower court records be returned forthwith.

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