
REGULATORY MECHANISM ON TRAFFICKING OF ILLICIT DRUGS ON SOCIAL MEDIA PLATFORMS

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ABSTRACT

Illicit drug supply and distribution has changed from its conventional form, from supply through peddlers to digital platform like social medias, which poses a serious problem for law enforcers to prevent and trace illegal activities committed through technology. Recently, India has seen a surge in trafficking of illicit drugs on social media platform which is a grave cause of concern, specially, given the absence of specific legislations on online trafficking of illicit drugs. This paper aims to analyze the regulatory mechanism in preventing such crimes, analyzing strategies used by law enforcement agencies. It starts with the basic legal framework. Lastly the paper highlights the challenges in faced by law enforcement specially in encrypting codes, trafficking tactics and infrastructural limitations.

Keywords: Social Media, Illicit drugs, Narcotics, investigation, enforcement, digital

Introduction

“Law must keep pace with technology lest justice become a casualty”,

- Justice Krishna Iyer.

The Above phrase highlights the need for evolution of law to be at par with the technological advancements in order to prevent offenders from exploiting legal loopholes and saving justice from being a mere casualty. Illicit drug supply and distribution has changed from its conventional form from supply through peddlers to supply in digital platform like social media, which poses a serious problem for law enforcers to prevent and trace illegal activities committed through technology. Beside dark web, young people are using social media to buy and sell drugs. A study titled “Role of Social Media and payment and Delivery Applications in Drug Abuse” by Criminology Department of University of Madras titled revealed that various social media sites like WhatsApp, Telegram, Instagram, Snapchat, Facebook are used for illicit drug trade.¹ A Bhopal Student was arrested recently for ordering drugs via social media.² Mumbai also have cases of trafficking of drugs on social media platforms like Instagram and warned the courier services to be vigilant.³ In another case, an Instagram influencer was caught smuggling mephedrone which underscores misuse of social media fame.⁴

This paper addresses a pivotal issue of who is responsible or liable for post of illicit drugs on social media and whether the conventional liability system is sufficient to address the liability on online cyber space. Additionally, the restrictions and mandates created under IT Act does not sufficiently address the issue and does not provide for criminal liability.

Social media houses generate money by the advertisements posted on their site, it provides a means where marketing and distribution advertisements may be created social media is a medium for new marketing and distribution opportunities in the global market place. Is

¹ Available at <https://timesofindia.indiatimes.com/city/chennai/15-drug-deliveries-done-in-chennai-through-apps/articleshow/109994279.cms>.

² Times of India, LSD & MDMA: Laced by dark web spaces, grip of synthetic drugs tightens on youth, July 13, 2025 available at <https://timesofindia.indiatimes.com/city/bhopal/lsd-mdma-laced-by-dark-web-spaces-grip-of-synthetic-drugs-tightens-on-youth/articleshow/122410886.cms?> accessed on 17 July 2025.

³ Pradip Kumat Maitra, “Social media platforms are major source for sale of drugs: fadnavis, Hindustan Times, 13 December 2023 available at <https://www.hindustantimes.com/cities/mumbai-news/social-media-platforms-are-major-source-for-sale-of-drugs-fadnavis-101702406999863.html?> accessed on 15 July 2025.

⁴ Social Media Star turned drug courier available at Times of India, July 15 2025, available at https://timesofindia.indiatimes.com/city/jaipur/social-media-star-turned-drug-courier-influencer-held-with-152g-md/articleshow/122460216.cms?utm_ accessed on 15 July 2025.

selling of illicit drugs on social media platform is an extension of conventional forms of illicit drug market or it is an entirely new way to supply drug? ⁵

This paper aims to analyze the regulatory mechanism in preventing such crimes, analyzing strategies used by law enforcement agencies. It starts with the basic legal framework. Lastly the paper highlights the challenges in faced by law enforcement specially in encrypting codes, trafficking tactics and infrastructural limitations.

Mode of operation

This segment of research paper attempts to conceptualize the mode of operations adopted by offenders. Social media sites are more efficient than traditional system as it is available just with a click⁶. Advertisings are free, safer than street buy scenario, and the settings allows dealers to hide in plain sights. Social media markets are more localized in comparison to darknet as the buyer and seller meet in person.⁷

Drugs dealing on social media rises the potential of making drugs accessible to larger group of young people. Additionally, the various types of drugs available on social media may tempt users to multiply the use of drugs.⁸

Social Media platforms are powered by algorithm and provides suggestions which dictates what content a user gets to see. It is not completely easy to understand the workings of algorithms, however simply put, a content recommendations algorithms is prepared which detects what the users are interested in by taking into considerations other factors such as age, gender, demography, user behaviour, user's frequency. As a result, finding drugs accidentally is possible as it does not require any effort from the user when compared to users obtaining drug on dark net which requires decrypting messages prior to making purchases, minimizing the barrier of entry to social media drug market and increases chances of reaching users which

⁵ Ross coomber, The changing shape of Illicit drug markets: differentiation and its consequences for understanding and researching illicit drug markets, Routledge, 22-47 (2023).

⁶ J Demant and S A Bakken, Technology facilitated drug dealing via social media in Nordic Countries, European monitoring committee, 2019.

⁷ Nina Tvede Korshoj, Thomas Friis Sogaard, "Hybrid drug dealing: Merging on- and offline spheres when dealing drugs via social media", , *International Journal of Drug Policy*, 130 (2024).

⁸ Jakob Demant and Silje A Bakken, Technology-facilitated drug dealing via social media in the Nordic countries, back ground paper commissioned by the EMCDDA for the EU Drug Markets Report 2019.

otherwise would not have exposed to online drug markets.⁹

Dealing on social media is often done in two phases, first there is a creation of user - dealer relationship. There are two types of social media Drug market, Public Digital Drug Market and Private Digital Markets.¹⁰ In Public digital drug market, drug deals are made in accessible digital space like Instagram, Facebook through public posts and profiles.¹¹ Dealers are very easy to find, once a person knows what term and emoji to use. Use of Emoji: Plug Emoji means a dealer can find you what drugs you are looking for. Terms used are research, experimental, not intended for human consumption. Another method is creating a hashtag. Hashtag is one of the most popular used features signifying a specific topic and sharing information on social networks. Drug dealers are using hashtags to promote marketing and sale of illicit drugs.¹²

Private Digital Market are closed peer to peer market which consist of messages applications and strict grouping system. Dealings on Private digital Market takes place in a space that is coded and can be accessed only by decryption. Study reveals that major drug dealing takes place on digital private markets. There are various online ethnographic research available on modus operandi of circulation and sale of drugs on social media sites. Additionally, affordance method studies have been conducted to understand the advertising of drugs online.

Given below is a pictorial representation of common emoji code which was revealed by DEA, US Federal Law Enforcement Agency. The emojis seems harmless and never were intended to be used as codes, but the DEA has decoded the dark web where these emojis are used as codes to sell and buy drugs online.

⁹ Niklaus Julian Sempach, *Social Media and the Sale of Illicit Substance*, (EIZ Publishing 2024) p 29.

¹⁰ Niklaus Julian Sempach, *Social Media and the Sale of Illicit Substance*, (EIZ Publishing 2024).

¹¹ Ibid.

¹² Andrew Child, Ross Coomber, Melissa Bull, "Do online illicit drugs markets afford rationality?", *Contemporary Drug Problems* 47 (4) 302-319, (2020).

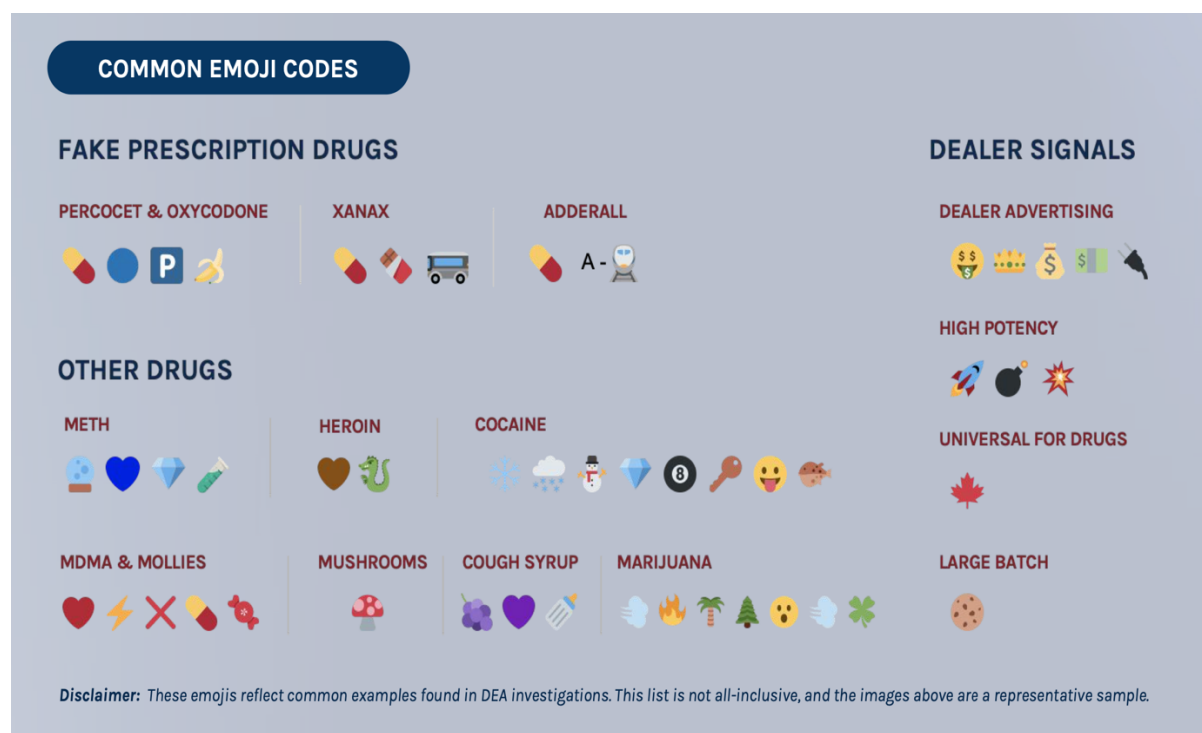


Image Source: ABC33New

Regulatory Mechanisms

UN Convention of 1961, 1971 and 1988, the Single Convention of 1961, Psychotropic substance convention 1971 mandates its signatory members to restrict illicit drug trade, however the convention does not have any provisions that addresses the trafficking of drugs on digital space.

NDPS Act

Narcotic Drugs and Psychotropic Substance Act of 1985 is the primary legislation addressing the illicit narcotics and psychotropic substance trafficking. It prevents trafficking of drugs and prescribes punishments for the same. However, the Act does not directly deal with sale of drugs on social media platforms as it was enacted long before advent of social media platforms. However, acts of trafficking drugs online can be punished under the broader provisions of the Act.

Section 8 (c) Prohibition under the Act

Section 8 (c) creates a broad prohibition of sale and trafficking of narcotics and

psychotropic substance. It prohibits dealing with contraband or illegal drugs except for medical or scientific purposes. Generally, the prohibited lists are provided in the schedule to the rules, however, Section 8 (c) is applicable even to substance which falls outside the scope of Schedule I of the rules as clarified in *Union of India v Sanjeev v Deshpande* and in *Union of India v Ashu Kumar & Ors.*¹³

The section recognizes numerous types of acts which constitutes as an offence such as cultivation, production of drugs, trafficking, sale, purchasing, trading, importing, exporting and consumption. Facilitating or abetting such activities via online or social media platforms will also be covered by the Act. Supreme Court in *Ram Singh v Central Bureau of Narcotics* (2011) 11 SCC 347, has held that, once an article is found in possession of the accused, it will be presumed that he had knowledge about the drugs and that he was in conscious possession. However, possession is a '*polymorphous term*' and it carries varied meanings in different situations, therefore, it is essential to prove that the article was in absolute control of the accused. This ratio can be applied to traffickers dealing with drugs online.

Section 21 and section 22 (Punishment)

Section 21 prescribes punishments for contravention of provisions of NDPS Act relating to manufacturing and preparing drugs and Section 22 prescribes for punishment for contravention in relation to psychotropic substances. The provisions cover ranges of activities such as manufacturing, possession, selling, purchasing, transporting, import or export of drugs. The punishment is decided on the basis of the quantity of drug. Dealing with small quantity of drugs carries a punishment upto 1-year rigorous imprisonment or 10000 fine or both. Punishment for intermediate quantity is rigorous imprisonment upto 10 years and fine upto 1 lakh rupees and for commercial quantity punishment is minimum rigorous imprisonment for 10 years and may extend upto 20 years and 1 to 2 lakhs rupees fine. The purity of the drug is not the determinate factor for punishment but it is the quantity that matters. Supreme Court in *Hira Singh v Union of India*¹⁴ held that '*punishment under these sections must consider the total weight of the seized contraband (including inert or non-prohibited substance) and not the purity of the drug*'.

¹³ (2007) 1 SCC 355, Delhi High Court Judgment, 2025.

¹⁴ (2020) 20 SCC 272.

Though the aforesaid provisions do not expressly mention ‘social media’, phrases such as ‘*sale or purchase...by any means*’ clearly indicates that section 21 or Section 22 will be applicable for transactions made on social media. Posting offers to sell drugs, arranging for deals through Direct Messaging (DMs) or posting and publicizing availability on social media sites like Facebook, Instagram or WhatsApp, would constitute ‘selling’ or ‘transport’ stated in the sections. With regard to evidence digital evidence like screenshots of chats, posts, transaction records, meta data, the procedures of NDPS Act ‘such as obtaining warrant, complying with due process under section 50, and sending of digital content to CFSL for verification’ must be done.

However, prosecuting and securing a conviction for offences committed on social media may come with operational challenges and logistics, seizure of contraband substance and unconnected links with the accused and the allegations.

Section 67 (Call for information)

Application of section 67 is significant for digital investigation, particularly in cases involving social media or encrypted communication. Section 67 empowers an officer mentioned under Section 42 to call for information and is authorized to enquire any person in order to satisfy himself whether there has been any contravention of the provisions under the NDPS Act. He may also require any person to produce or deliver anything of document that is necessary for enquiry and examine any person who is acquainted with the facts and circumstances of the case. The power is investigatory in nature and aids in detecting any violation of the provisions of NDPS Act.

However, the statements recorded under section 67 are not admissible as evidence if there is violation against right to self-incrimination as held in *Toofan Singh v State of Tamil Nadu*¹⁵. Further, in *Firdoskhan Khurdhidkhan v Gujarat*, the Supreme Court reaffirmed *Toofan Singh* ratio and rejected the attempts of prosecution to use the confessional statement made to NCB officers. It was noted that the situations surrounding the recorded statement casted grave doubts on the validity of the recording and underscored its inadmissibility unless it is corroborated with independent evidence.

¹⁵ (2020) 9 SCC1

Perhaps one of the most famous cases on sale of drugs on social media site is ‘Orient Express Telegram Group Case’ which consisted of 300 members mostly consumers and street level peddlers. The Delhi High court however granted bail to the accused stating that no drugs were seized from the accused and that no custodial link to conspiracy was proved. Significant legal issue that arose in this case was, *whether being a telegram group admin amounts to ‘dealing’ with contraband?* The Delhi High Court observed that ‘administrative or passive roles on social media platform does not automatically equate to drug trafficking under the NDPS Act. The judgment created a difference between active trafficking that is selling and passive administration that is consumption. Mere admin status or monetary transfer will not equate to trafficking under the Act if the alleged contraband is not recovered and that the role of facilitating sale of illicit drugs must be clearly established.¹⁶

The lack of explicit provisions under the Act will create enforcement struggle in applying conventional evidentiary standards such as physical seizure, witness statements to the virtual marketplace. Transactions often does not involve a direct face to face interaction. The orient express case is a clear instance of such challenge. Further, there no definition in the act that defines or recognizes ‘**facilitation of drugs digitally**’. A well-structured definition is required to bring the offenders under the penalty clauses.

Section 67 therefore, empowers officers under the NDPS Act to issue summons to social media platform owners like Meta for Instagram or WhatsApp and may direct the intermediaries to provide chat records or transaction details of users that are involved in illegal activities. However, incriminatory evidence will not be per se admissible unless it is corroborated with independent evidence like reliable metadata, financial trails or third-party verification in order to secure and sustain a conviction.

Information Technology Rule 2021 (Intermediary Guidelines and Digital Media Ethics Code)

Generally referred to as IT Rules 2021, primarily imposes *due diligence* obligation on intermediaries and imposes a important obligations on the intermediaries including social media platforms, to control and prevent circulation of illegal content on its sites. Though the rules do not expressly mention the sale of illicit drugs on social media, the provisions under

¹⁶ Naman Sharma v State through NCB, March 2022, Delhi HC Judgment.

the rules encompasses such acts within a broader category of content that facilitates unlawful acts. Rule 3(1)(b) expressly and clearly states that the intermediaries have an obligation to inform users not to host, display, upload, modify, publish, update or share any information that is illegal, harmful, or is promoting an unlawful act. Intermediaries are required to make their rules, policies and include it in the user agreement and information. They are also required to make reasonable effort in preventing users from promoting illegal act in any of the ways mentioned above. Due diligence mandate requires the intermediaries to establish a mechanism that would receive complaints about the prohibited content and remove contents through technology-based measures like automated tools.

Under the rules, if any illegal content is posted or promoted, the intermediaries have an obligation to remove the illegal content upon government or court orders. In addition, upon receiving of grievances or complaints, intermediaries are required to takedown the prohibited content within 24 hours. This prompt structure in the Rules is crucial for addressing sale of illicit drugs. The 2021 Rules also introduced the concept of Significant Social Media Intermediaries (SSMIs).¹⁷ SSMIs are intermediaries that have more than five million registered users on the social media. SSMIs are defined under Section 2(1) (w) as “*an intermediary which primarily or solely enables online interaction between two or more users and allows them to create, upload, share, disseminate, modify or access information using its services*”. Keeping the extreme level and volume of traffic on digital platforms, the SSMIs are entrusted with additional due diligence in addition to rule 3. They are obligated to appoint certain officials who fundamentally would deal with compliance related issues. As per Rule 4, SSMIs shall appoint a chief compliance officer, a nodal contact person and a Resident Grievance officer. These designated officers serve as the points of contact for law enforcement agencies who are investigating trafficking of illicit drugs through digital platforms.

One of the controversial provisions of the rule is Rule 4(2), which provides for ‘*traceability requirement*’. SSMIs must be able to provide identification of the first originator of a message upon receiving a legal order for offences of sexual abuse, sovereignty and public order. This provision is specifically significant for encrypted messaging services, as it would empower law enforcement agencies to trace the origin of a message of a drug transaction.

¹⁷ Ministry of Electronics and Information Technology, The information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021

However, this provision is not free from controversy due to the potential impact on right to privacy and encryption mechanism.

Further, as per Rule 4 (4), a SSMI must endeavour to implement an automated tool or other mechanism that would assist in proactive identification of information that depicts any unlawful act and disable access to unlawful content. Though the provision explicitly deals with preventing spread of child sexual abuse materials, it can also be utilized for detecting and blocking posts or messages that advertises or facilitate drug sales.

In case an Intermediary fails to observe the due diligence requirement, they shall not be entitled to protection under Section 79 of Information Technology Act 2000, which provides for immunity from third party content. Loss of immunity would mean that the intermediaries can be held legally liable for illegal user generated content including sale of illicit drugs.

Therefore, the IT Rules 2021 endeavours to create a comprehensive regulatory framework for the intermediaries to vigorously monitor acts of posting or promoting unlawful content and report and remove such illegal content. This due diligence procedure and the rules therein complement the NDPS Act, by ensuring that the social media sites are not used as a safe haven by the drug traffickers. However, there are numerous challenges in monitoring and preventing such act due to rapid evolving language/slang used for drugs. Further, there is a need to balance the privacy rights of individuals and the requirements of law enforcement agencies.

Despite the due diligence mandates, the Act or the Rule does not expressly criminalize online drug trafficking. It is unlikely to make the intermediaries liable for drug related content automatically. The prosecutor will have to prove that the intermediaries had the '**knowledge**' that such illegal activity was being conducted. Further, it is nearly unfeasible to identify and remove illegal content without violating privacy as they use end-to-end encryption systems. A secondary liability provisions could have been included for social medias that act as the platform enabling drug trade. Due to lack of a comprehensive law and legislative backing, the judiciary is not inclined towards extending the provisions of NDPS to facilitators of drugs on online platforms as can be seen in Manan Sharma and Dixita Golwala cases.

Law enforcement Strategies

With the rise of constant threat of cyber-crime specifically on social media, it is

imperative that law enforcement agencies remain proactive and prevent such illegal activities. In order to prevent such crimes, law enforcement agencies adopt strategies like **digital intelligence and digital surveillance, monitoring dark webs, and collaborating with platforms**. Law enforcement agencies are integrating Artificial intelligence, Machine Learning and Big data Analytics to detect, analyse and prevent cybercrimes.¹⁸ These strategies play a significant role in countering illicit activities on social media platforms.

Cyber Threat Intelligence (CTI): CTI involves gathering of information, processing the information and analyzing it to check potential cyber threats. Proactive measures majorly consist of intelligence collection including monitoring indicators of compromise (IOCs) and anomalous behaviours on social media sites. Such intelligence are then analysed to understand and map relationship between suspected vendors and buyers. Agencies monitor the posts, forums, hashtags and dark web by using open source intelligence. Additionally, AI like Natural Language Processing (NLP) is used to scan the patterns which indicates activities of illicit drug sales.¹⁹ Digital surveillance strategy includes analysis of meta data in order to obtain communication patterns even on encrypted platforms.

Social media patrolling is another technique used by law enforcement agencies to fight drug trafficking on social media platforms. This technique includes monitoring social media sites for suspicious acts and identifies threats.

Additionally, the agencies also use social network analysis (SNA) in mapping criminal networks which operates on social media. This tool enables the agencies to track organized crime groups, drug syndicates and terrorist cells.²⁰

Another significant tool in digital patrolling is geolocation tracking. This technique tracks the location of users to trace criminals.

In order to apprehend criminal, the law enforcement agencies use undercover operations. Law officers often create fake accounts and infiltrate online groups that commits illegal acts. They then gather information and uncover illegal transactions. Interpol led

¹⁸ Babak Akhgar, P. Saskia Bayeri, Fraser Sampson, Open Source Intelligence Investigation: from strategy to implementation (Advanced sciences and Technologies for security Applications) Springer, 2019

¹⁹ H. Chen, D Zeng, H. Atabaksh, W Wyzga, J Schroeder, COPLINK: Managing law enforcement data and knowledge, Communications of the ACM, 2020 46 (1) 28-34.

²⁰ J.M. Berger, Jonathon Morgan, The ISIS Twitter Census: defining and describing the population of ISIS Supported on Twitter”, Brookings Institution, 2015.

operation in one of its successful operations dismantled an international cybercrime network involved in financial fraud. Despite the efforts, social media patrolling is challenging in being implemented due to vast amount of data and analysis of such data requires a high-level technology. Automated tools additionally cannot fully help in sorting the data specially coded data. Further, social media patrolling also raises evidentiary challenges. For instance, the posts, messages or data may be acceptable as evidence in the court, but the procedure to collect and maintain sanctity of evidence under NDPS may not be complied with. For instance, NDPS due procedure clauses require authentic chain of custody, seizure of contraband and certification from magistrate and the evidences collected through social media may not suffice to sustain a conviction under NDPS Act.

The Punjab and Haryana High Court in *Rakesh Kumar Singla v Union of India* acquitted the accused as the mandatory certification under Indian Evidence Act now (BSA) was not complied with and therefore rejected WhatsApp chat as evidence. Further as seen above in Naman Sharma case, the Courts held that chats from a deleted account cannot be accepted as evidence without corroboration of independent evidence. In yet another case of *Jasbir Singh v NCB*²¹, the major question whether a certain account, alleged to have committed illegal act of selling drugs online, belonged to the accused or not and the court held in negative due to lack of corroborating evidence.

Further the Calcutta HC in *Ashit Biswas v State of West Bengal* emphasized the lapses in preparing and documenting the chain of custody of the contraband substance which led to acquittal of the accused. Court also observed that minor discrepancies in handing evidence may undermine the admissibility and credibility of the evidence.

It can be said that law demands establishment of clear link between the social media accounts with the accused individuals.

Conclusion

Proliferation of social media has given rise to challenges of criminal activities on digital spaces. These platforms are utilized by traffickers as they are able to exploit anonymity and encrypted communication. While it may have been exploited, the platform also provides valuable data streams that may be used by law enforcement agencies. The current regulatory

²¹ (2007) 98 DRJ 404.

mechanisms are clearly reactive and provides no support to law enforcement agencies to combat trafficking of illicit drugs in online networks. A robust law combined with proactive monitoring mechanism, sophisticated automated tool and cross border cooperation is required to combat and prevent trafficking of illicit drugs on social media platforms. At the same time the laws must be formulated considering the sacrosanct fundamental rights to privacy, freedom of expression and due processes. Legal provisions must be strengthened, strict adherence to maintain chain of custody must be ensured and accountability must be imputed upon the intermediaries.