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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

CNR No. DLHC010552852025

+ **BAIL APPLN. 3004/2025**

DIVINE NWACHUKWU

.....Petitioner

Through: Mr. Mahesh Bhardwaj, Mr. Javed
Kha & Mr. Fahad Siddiqui, Advs.

versus

CUSTOMS

.....Respondent

Through: Mr. Vishal Chadha, Sr. Standing
Counsel for Customs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **18.08.2026**

1. The present petition has been filed under Section 483 Cr.P.C.(Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, BNSS) seeking grant of regular bail in respect of complaint case No.VIII/AP/10/P&I/3745-A/Arrival/2022, for the offences punishable under Sections 8/21/23/28 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act) filed by the respondent-Department of Customs.
2. The facts of the case are that on 31.10.2022, the applicant, who is a Nigerian national, arrived at Terminal-3 of IGI Airport, New Delhi, from Doha. Based on specific secret information obtained by the officials, she was intercepted by Customs Officials after crossing the Green Channel. A thorough scanning was done thereafter, and during the scanning of her



checked-in luggage, some suspicious images were noticed. In furtherance of the same, a search of her baggage was conducted. Resultantly, recovery of 4000 grams of a white powdery substance was concealed in the false bottom of a red trolley bag, which subsequently tested positive for Heroin. On discovery of the same, the applicant was arrested on 31.10.2022.

3. Learned counsel appearing for the applicant submits that the applicant is innocent and he has been falsely implicated in the present case. It is being contended by the counsel that there has been a violation of the provisions of the Customs Act and NDPS Act in the seizure of the contraband article. It was further submitted that there are no criminal antecedents of the present applicant and that the petitioner has been incarcerated for about 3 years 8 months. As per the nominal roll, as on 25.02.2026, he had suffered 3 years 3 months 25 days.

4. These submissions were strongly opposed by Mr. Satish Aggarwala, learned Senior Standing Counsel for the Customs. He contends that the contraband article in the instant case was heroin and 4000 gms. of heroin was recovered from the baggage of the applicant. He submits that the commercial quantity is more than 250 gms. And bearing in mind the huge quantity of the contraband article and the rigors of Section 37 of the NDPS Act, the applicant is not entitled to the grant of bail.

5. In *Narcotics Control Bureau v. Mohit Aggarwal*¹ The Supreme Court discusses the persuasive grounds and the valid considerations made by the Court to grant bail in the respected matter. The relevant para is as under-

19. In our opinion, the narrow parameters of bail available under Section 37 of the Act have not been satisfied in the facts of the instant case. At this stage, it is not safe to conclude that the

¹ (2022) 18 SCC 374



respondent has successfully demonstrated that there are reasonable grounds to believe that he is not guilty of the offence alleged against him, for him to have been admitted to bail. The length of the period of his custody or the fact that the charge-sheet has been filed and the trial has commenced are by themselves not considerations that can be treated as persuasive grounds for granting relief to the respondent under Section 37 of the NDPS Act.

6. While considering the present application for bail, this Court, *vide* order dated 22.07.2026, directed the concerned Court to send a report in a sealed cover stating the stage of the trial, the tentative time for its completion, and the primary hurdles.

7. Pursuant to the Court's direction, the concerned Court has sent a report, and on its perusal, it was noted that only 7 SPPs were assigned to conduct the customs cases before the concerned court complex. It was stated by the concerned Court that all the SPPs were not appearing every day and each of them was allocated specific days. The hurdles in production of the properties were also indicated, and it was stated that the properties were generally produced only on Saturdays.

8. Bearing in mind the aforesaid fact, on 12.08.2026, the Commissioner of Customs, Airport, was directed to place on record the affidavit dealing with the aforesaid aspects.

9. Pursuant to the Court's direction, the affidavit of the Commissioner of Customs has been placed on record. The Commissioner, in its reply, stated that full cooperation shall be rendered for the early conclusion of the trial. It is also stated that, notwithstanding the Saturday being a public holiday, the department, if directed, shall produce the properties on Saturday as well. It is also stated that the concerned SPPs have never sought any adjournment. The affidavit filed by the Commissioner be forwarded to the concerned Court.



The Department of Customs shall be bound by the undertaking furnished in the said affidavit. If the averments made in the affidavit are found to be incorrect, appropriate action be taken.

10. Let the concerned Court to expedite the trial, and an endeavor shall be made to complete it within a period of six months from the date of receipt of this order.

11. Bearing in mind the quantity of contraband article and the other material which has come on record in the complaint as of now, the Court is not inclined to enlarge the applicant on regular bail.

12. The applicant, however, is at liberty to renew the bail application if trial is not concluded within a period indicated herein below.

13. In view of the above, the bail application stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 18, 2026

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