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

+ BAIL APPLN. 571/2016

HENRY EMEKA NDUPU & ORS Petitioner

Through Mr. Shehzad Alam and Mr. Virendra
Chaudhary, Advs.

versus

NARCOTICS CONTROL BUREAU Respondent

Through Mr. B.S. Arora, Adv.

CORAM:

HON'BLE MR. JUSTICE P.S. TEJI

ORDER

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12.05.2016

Arguments heard.

The petitioner has filed the present application under Section 439 Cr.P.C. for the grant of regular bail in case S.C. No.25/2014, under Section 21/23/29 NDPS Act, 1985.

The allegations levelled against the petitioner are that on 15.04.2014, the Narcotics Control Bureau received an information to the effect that a consignment containing approximately 500 grams of cocaine was destined to arrive in New Delhi. IO Vishwanath Tiwari collected the said parcel from the Captain of Flight No.B8257 at about 0845 hours. After taking of the delivery of the consignment, the same was deposited in the malkhana. Vigil was kept in Kalkaji Police Office where it came to know that enquiries regarding the said

parcel were being made. On 01.05.2014, accused/petitioner came to take the delivery of the said parcel at Kalkaji Post Office and was apprehended. On opening the said parcel, 610 grams of cocaine, a contraband was recovered. Statement of the petitioner under Section 67 of the NDPS Act was recorded in which he admitted the commission of offence. He also admitted that he had gone to receive the parcel at the instance of co-accused Sharon. Co-accused Sharon was also arrested. Subsequently, the Bureau also seized one more parcel having cocaine weighing 165 grams.

Arguments advanced by the counsel for the petitioner are that the parcel was not in the name of the petitioner and the post office could not deliver the said parcel to the petitioner. It is further argued that the petitioner has been falsely implicated in the present case.

The contentions raised by the counsel for the petitioner are the factual aspect of the matter which cannot be determined and the same can be decided only after adducing evidence.

Counsel for the petitioner relied upon judgments in the case of ***Emma Charlotte Eve v. Narcotic Control Bureau 2000 (54) DRJ 610*** and ***Narcotics Control Bureau v. Ramesh Kumar 2013 (3) JCC (Narcotics) 100***. The judgments cited by the counsel for the petitioner do not render any assistance to him for the reasons that the same are based on the questions of fact where the Courts have already reached to the conclusion on a particular fact and the accused persons were acquitted.

In the facts and circumstances, in the considered opinion of this Court, the present matter is for the grant of bail and three witnesses

have already been examined, so no ground is made out to grant bail to the petitioner.

Application is accordingly dismissed.

P.S.TEJI, J

MAY 12, 2016
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