

\$~13.

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

+ **BAIL APPLN. 695/2016**

FRANK ONYEMA

..... Petitioner

Through: Ms. Sushma Sharma, Advocate.

versus

THE STATE

..... Respondent

Through: Mr. Ashish Dutta, APP along with SI
Rajnikant, PS-Crime Branch, for the
State.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER
27.07.2016

%

The petitioner has preferred the present bail application under Section 439 Cr.P.C. The petitioner is in judicial custody since 14.06.2015 in relation to FIR No. 88/2015 registered at Police Station – Crime Branch under Section 21 of the NDPS Act, Sections 420/ 468/ 471/ 474 IPC and Section 14 of the Foreigners Act.

The case of the prosecution is that on 13.06.2015, on a secret information received vide D.D. No.12, it was informed that a Nigerian person, i.e. the applicant, who was residing in the area of Uttam Nagar is engaged in the supply of cocaine in Delhi and Manali in retail and

wholesale. Consequently, a trap was laid for apprehending the applicant at Underpass of Metro Station, Kashmiri Gate, Delhi after compliance of Section 42 of the NDPS Act. On his search, one transparent polythene bag tied with a rubber band kept in the right pocket of the trouser worn by him was recovered which contained a powder. Upon field test, the same gave a positive test for cocaine. The same weighed 30 grams. Consequently, FIR No. 88/2015 under Section 21 of the NDPS Act was registered at Police Station – Crime Branch and the applicant was arrested.

During his personal search, passport No. A05527238 with two Indian visas was recovered from his possession. After due verification from the High Commission of Nigeria, New Delhi, the passport was found to be genuine. One medical single visa was found to be valid up to 02.11.2014 and record of business double visa which was issued from HCI Abuja, Nigeria was found to be non-available as per the MEA, New Delhi. It was also found that the arrival stamp on the second visa sticker was not in circulation on the date as per the report of the FRRO, Delhi. Consequently, the petitioner applicant was charged under Section 21 NDPS Act and Sections 420/ 468/ 471/ 474 and Section 14 of the Foreigners Act were added. Charge was framed under Section 21 of the NDPS Act, under Section 474 IPC and Section 14 of the Foreigners Act.

The submission of learned counsel for the petitioner is that the quantity allegedly recovered is intermediate quantity and there is no bar to grant bail to the applicant. Learned counsel submits that merely because the applicant does not have a permanent address in Delhi, he may not be denied bail since he is a foreigner. He submits that the applicant shall provide the applicant's address at Delhi and shall also abide by whatever conditions this

Court may deem fit to impose upon him.

The application is opposed by the learned APP. He submits that 5 out of 16 witnesses have been examined. He submits that the applicant has also been identified by the witnesses examined so far.

Considering the fact that the trial is in progress and the applicant is charged with offence of being found in possession of 30 grams of cocaine, and he was allegedly staying back in India without a valid visa, I am not inclined to grant bail to the applicant at this stage as there is every likelihood that he may escape and jump bail. Moreover, several prosecution witnesses have yet to be examined.

In these circumstances, the application is dismissed. However, the Trial Court shall expedite the trial so that the remaining prosecution evidence is completed within nine months.

VIPIN SANGHI, J

JULY 27, 2016

B.S. Rohella