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

+ **BAIL APPLN. 1257/2015**

JOSHUA IZUU

..... Petitioner

Through : Ms.Sushma Sharma, Advocate.
versus

THE STATE (NCT OF DELHI)

..... Respondent

Through : Mr.Amit Gupta, APP with SI Rahul.

CORAM:

HON'BLE MR. JUSTICE S.P.GARG

ORDER

% **04.02.2016**

1. The petitioner seeks regular bail under Section 439 Cr.P.C. in case FIR No.44/2013 registered under Sections 21/29 NDPS Act and 14 Foreigners Act at PS Special Cell. Status report is on record.

2. I have heard the learned counsel for the parties and have examined the file. Petitioner's counsel urged that the petitioner is in custody since 06.10.2013 and the evidence has yet not been recorded completely. Bar of Section 37 NDPS Act is not applicable as the quantity recovered from the petitioner was not 'commercial'. Co-accused – Vaibhav Gupta has since been granted bail. Learned APP urged that the petitioner is a foreigner and had stayed in India since 2010 after the expiry of visa on 21.05.2010. An electronic weighing machine was also recovered from his residence. The petitioner was found using mobile No.7838449378 which was subscribed in the name of the Shiv Sahai. On contact, Shiv Sahai denied using the mobile and stated that someone had used his fake ID.

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3. Allegations against the petitioner are serious whereby he was found in possession of 70 grams of high-grade cocaine on 05.10.2013. It is further averred that he sold 10 grams of cocaine to co-accused – Vaibhav Gupta for a consideration of ₹20,000/- recovered from his possession. Charge has been framed and the statements of the prosecution witnesses are being recorded by the Trial Court. It is not explained as to why the petitioner overstayed in India after expiry of visa way-back in May, 2010. It is unclear as to what job / work was being carried out by him before his arrest in 2013. The petitioner has no permanent residential address and there is every possibility of his fleeing away if released on bail.

4. Considering the gravity of the offence, I find no sufficient ground to grant regular bail to the petitioner. The Trial Court is, however, requested to expedite the trial and endeavour to dispose of the case at the earliest preferably within six months as the petitioner continues to be in custody since 06.10.2013.

5. The bail application stands disposed of in the above terms.

S.P.GARG, J

FEBRUARY 04, 2016 / tr