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IN THE HIGH COURT OF DELHI AT NEW DELHI

BAIL APPLN. 2567/2015

AKACHUKWU CHRISTOPHER NNADI

..... Petitioner

Through

Mr J.S. Kushwaha and Mr K. Pundir,
Advs.

versus

THE STATE

..... Respondent

Through

Mr Hirein Sharma, APP for the State
along with Sub Inspector Manoj Kumar,
PS Narcotic Cell, Delhi

CORAM:

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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25.04.2016

1. This is an application under Section 439 Cr.PC moved by the petitioner for grant of regular bail in case FIR No.171/2013 under Section 21 of NDPS Act registered with Crime Branch, Delhi.
2. As per the prosecution case, on the basis of secret information, the petitioner was apprehended. 102 gms. Cocaine in a transparent polythene was recovered from his possession. Two samples of 2 gms. each were drawn from the recovered controlled substance which was sent to FSL, Rohini and the result was found to be positive.
3. Learned counsel for the petitioner seeks release of the petitioner on bail, inter alia, on the ground that in contravention to Standing Instruction No.1/88 dated 15.3.1988 issued by the Narcotic Control Bureau, New Delhi vide which the sample was required to be dispatched within 72 hours of seizure to the laboratory, which was sent after a delay of five days to the laboratory. Further, as per the case of prosecution, 102 gms. cocaine was

recovered from the possession of the accused, however, reference was made to the testimony of PW7-Head Constable Bharat Singh for submitting that the cocaine was weighed by the Investigating Officer along with polythene and empty polythene was not weighed separately. Counsel submits that if the weight of the polythene is excluded then the recovered substance would be less than 100 gms. which falls in the category of intermediate quantity. Moreover, it has come in the deposition of the witnesses that recovered contraband was of 'white colour', however, when it was opened in the Court it was 'off white colour'. Under the circumstances, it is submitted that there are bright chances of acquittal of the petitioner. He is in custody since 11th October, 2013, as such, he be released on bail.

4. Learned APP for the State, on the other hand, submits that the offence committed by the petitioner is grave and serious in nature. The submissions made by the counsel for the petitioner pertains to the merits of the case. The case is almost at the fag end of trial as only two witnesses remains to be examined. Reference was also made to the involvement of the petitioner in another case FIR 405/2010 u/s 324/435 IPC r/w 14 Foreigner Act Police Station Mandawali, East Distt., which is still pending in the Court.

5. Needless to say, the allegations are grave and serious in nature. All the submissions made by the learned counsel for the petitioner pertains to the merits of the case. At this stage, it will not be desirable to minutely scrutinized the testimony of witnesses or express any opinion regarding the same lest it may adversely affect the case of either party at the trial of the case. Suffice it to say, keeping in view the seriousness of the offence

coupled with the fact that the prosecution is on the verge of completing its evidence, as such, I do not deem it appropriate to release the accused on bail at this stage.

The application is accordingly dismissed.

SUNITA GUPTA, J

APRIL 25, 2016/rs