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

+ CRL.A. 920/2019 and CRL.M.(BAIL) 1391/2019

DARLINGTON CHIEMEZIE

..... Appellant

Through: Mr Kunal Malhotra, Advocate
(DHCLSC) with Ms Palak
Kharbanda, Advocate.

versus

STATE

..... Respondent

Through: Ms Kusum Dhalla, APP for State.
ASI Ashok Kumar, N&CP Crime
Branch, Delhi.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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27.09.2019

1. The appellant has filed the present appeal impugning a judgment dated 06.05.2019, whereby the appellant was acquitted of an offence under Section 21(C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter 'the NDPS Act') However, he was convicted of an offence under Section 14 of the Foreigners Act, 1946.
2. The appellant is a Nigerian Citizen and was arrested from a metro station. It is the appellant's case that he had come to attend the birthday party of his nephew. He claimed that he had been picked up and framed for an offence under the NDPS Act.
3. Admittedly, on being taken in custody, the appellant was asked to produce a passport which he could not. It is the appellant's case that he had lost his passport while shifting his residence. However, it is not disputed that the appellant had not made any complaint with any police authority or the

Nigerian embassy in this regard, at the material time.

4. It is the appellant's case that he had come to India on a tourist visa in the year 2015. The appellant could not produce any visa to substantiate his claim. It is well accepted that a tourist visa is only issued for a period of six months. Thus, it is apparent that the appellant did not have a valid visa to reside in India.

5. In any event, the appellant could not produce any evidence which would even remotely indicate that he was staying in India on the basis of a subsisting visa. This Court finds no infirmity with the decision of the Trial Court in holding that even if it is accepted that the appellant has come to India on a valid visa, it would have expired.

6. In the given facts and the evidence obtaining in this case, this court finds no fault in the decision of the Trial Court convicting the appellant of the offence under Section 14 of the Foreigners Act, 1946

7. In view of the above, the appeal is dismissed.

8. The appellant would be handed over to the concerned FRRO for further proceedings regarding his deportation on completing of his sentence (which this Court is informed he has already done). It is clarified that this is subject to the appellant not being involved in any other case.

9. Accordingly, the bail application is also dismissed.

VIBHU BAKHRU, J

SEPTEMBER 27, 2019/ RK