

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Crl.M.No.32750 of 2019

Date of Decision: 26.10.2020

Emeka Ezeeofer @ Polyloos

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Arjun Veer Sharma, Advocate for the petitioner.

Mr. H.S. Sullar, DAG, Punjab.

Mr. Varun Issar, Advocate for respondent No.2.

HARINDER SINGH SIDHU, J

Prayer is for grant of regular bail in case FIR No.67 dated 21.03.2019 under Section 21 of NDPS Act registered at P.S City Khanna, District Khanna, District Ludhiana.

The petitioner is a citizen of Nigeria. Allegations against him are that he was found in possession of 300 grams of heroin.

During the hearing of this petition on 01.11.2019, on query by this Court learned counsel for the petitioner apprised the Court that the petitioner had come to India on Tourist Visa which expired while he was in custody. It was also informed that the family of the petitioner comprising of his wife and three children were residing in Delhi.

Vide order dated 07.12.2019 this Court allowed the petitioner to apply for extension of visa from the jail itself. It was directed that the petitioner be provided with a Visa Form in the jail. The Union of India was directed to be impleaded as respondent. Consequently notice was issued to the Union of India through Secretary, Ministry of External Affairs, Government of India.

When the case was taken up on January 15,2020 Ld. Counsel appearing for the Union of India informed that that visa of the petitioner was

got verified through the Ministry's IVFRT database. It was found that no Visa was issued to the petitioner by the Office of High Commission of India, Lagos. Learned counsel representing respondent No.2-UOI stated that if fresh particulars of Visa and passport of petitioner were provided the Ministry of External Affairs would conduct fresh inquiry from Foreigners Regional Registration Officer (FRRO).

As regards the question of grant of bail to the petitioner Ld. Counsel for the petitioner has argued that there is no other criminal case against the petitioner. This fact has also been affirmed in the affidavit dated 31.10.2019 of Rajan Parminder Singh PPS Deputy Superintendent of Police, Khanna. Ld. Counsel has argued that the petitioner has been in custody since 21.03.2019 and that the trial is not making any headway because of the Covid-19 pandemic. He has relied on various orders wherein this Court has granted bail to Nigerian Nationals where the alleged recovery was 300 grams of Heroin (Ref. Order dated 14.03.2017 in CRM. No. 7863 of 2017 Ugochukwu Henry Vs. State of Punjab, order dated 07.09.2020 in CRM-M- 2193 of 2019 Ameca Ofer Vs. State of Punjab).

In view thereof without commenting on the merits of the case in my opinion, no useful purpose will be served by detaining the petitioner behind bars any further . Accordingly his petition deserves to be allowed.

However taking into consideration the stand/ reply submitted on behalf of the Ministry of Foreign Affairs that the entry of the petitioner in India was not on valid Visa, the only recourse available to the petitioner is to first approach the Foreigners Regional Registration Officer (FRRO), which would determine the issue with regard to grant of permission to the petitioner to stay in the country during the period of trial.

Learned counsel for the petitioner submits that the petitioner

would get his Visa extended and also approach the Foreigners Regional Registration Officer (FRRO) for the necessary permission. The respondents are directed to take the petitioner under custody to the Competent Authority so as to enable him to seek necessary permissions.

Accordingly this petition is allowed. The petitioner Emeka Ezeefer @ Polyloos is ordered to be released on bail on his furnishing bail bonds/surety bonds to the satisfaction of learned trial Court/Chief Judicial Magistrate/Duty Magistrate. This would however be conditional on his obtaining necessary permission from the Competent Authority for his stay in the country during the period of trial.

Disposed of in the above terms.

October 26, 2020
manoj

(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No