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

+ **BAIL APPLN.1033/2020**

CHUKWNEMIKA (IN JC)

..... Petitioner

Through Mr Anoop Kumar Gupta, Advocate.

versus

STATE

..... Respondent

Through Mr Ravi Nayak, APP for State.

Mr Dharam Yadav, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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28.05.2020

[Hearing held through videoconferencing]

CRL. M.A. 6886/2020

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

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3. The petitioner has filed the present petition, *inter alia*, praying for bail in FIR No. 0033/2017 under Section 21/29 of the Narcotics Drugs and Psychotropics Substances Act, 1985 and Section 14 of the Foreigners Act, 1946 registered with P.S. Crime Branch.
4. The petitioner was granted bail by an order dated 17.01.2019 (Bail Application No. 387/2018 Chukwnemika v State), however, after being released on bail, the petitioner failed to appear before the Trial Court on 23.04.2019. The petitioner states that he could not appear before the Trial Court as he was suffering from Jaundice. Further, he could not contact his

counsel as phone of his \counsel was not reachable.

5. Subsequently, NBWs were issued against the petitioner and proceedings under Section 82 Cr.P.C. were initiated and the petitioner was declared a proclaimed offender on 18.07.2019. He was again arrested on 04.08.2019 and produced before the Court on 06.08.2019.

6. The petitioner's explanation that he could not appear in Court on 23.04.2019 as he was suffering from jaundice is not persuasive as there is no material on record to substantiate the same. Even if the petitioner was indisposed and could not appear before the Court on 23.04.2019 it was necessary for him to ensure that his counsel appeared. However, it is seen that his counsel also did not appear on the said day.

7. The explanation that his advocate could not be contacted on that date is also not persuasive. Even, if the petitioner did not contact his counsel, his counsel ought to have appeared before the court.

8. The learned counsel appearing for the petitioner submits that he did not do so because there was some dispute between the petitioner and his counsel at the material time.

9. Even if it is accepted – which this court does not – that on 23.04.2019 neither the petitioner nor his counsel could appear before the trial Court, it was incumbent upon the petitioner to take the immediate steps to ensure that the NBWs issued against him were cancelled. The petitioner took no steps to do so. Subsequently, proceedings under Section 82 Cr.P.c. were initiated and even at that stage the petitioner did not appear before the Court. He was declared as Proclaimed Offender on 18.06.2019 and was thereafter arrested. It is apparent from the above that the petitioner has attempted to evade the proceedings.

10. In this view, this Court finds no infirmity with the decision of the Trial Court in declining the petitioner's prayer for bail. This Court is of the view that the present petition should deserve the same fate.

11. The petition is, accordingly, dismissed.

VIBHU BAKHRU, J

MAY 28, 2020

pkv