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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 26th November, 2020
+ **BAIL APPLN. 1336/2020 & CRL. M.A. 7924/2020**
ANAYO DANIEL Petitioner

Through: Mr. J.S. Kushwaha, Advocate. (M:
9810139156)

versus

STATE Respondent
Through: Mr. Raghuvinder Verma, APP.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done by video conferencing.
2. The Petitioner has filed the present petition seeking regular bail. He is a Nigerian national who has been charged with offences under Section 21 of the Narcotics Drugs and Psychotropic Substances Act, 1985 ("NDPS Act") and Section 14 of the Foreigner Contribution (Regulation) Act, 1952. He was found in possession of 130 grams of heroin and was taken into custody on 17th December, 2019.
3. Mr. Kushwaha, ld. counsel for the Petitioner submits that the quantity of contraband seized from the Petitioner is of intermediate quantity and does not fall within Section 37 of the NDPS Act. He relies upon various orders of this Court passed by ld. Single Judges in support of his prayer for regular bail. The said orders are *Rakesh@Shankar v. State [Crl. Appeal No. 663 of 2010; dated 8th January, 2014]*, *Harish Joshi v. D.R.I. [Bail Application No. 2449/2008, dated 16th January, 2009]*, *Uruakpa Ahmed@Baba Don v. State [Bail Appln. 191/2020, dated 16th March, 2020]*, *Paul Chinedu Ugwar v.*

State [Crl. A. 448/2015, dated 16th March, 2020], Eziefula Samuel Uchegbu & Anr. v. State [Bail Appln. 1491/2020, dated 23rd July, 2020], Chinazor Festus Mbalugh v. NCB [Crl. A. 76/2020, dated 8th September, 2020] as also Chinedu v. State [Bail Appln. 1570/2020, dated 11th November, 2020]. Mr. Kushwaha, ld. counsel submits that in all such similar cases where only intermediate quantity has been seized from the accused, bail has been granted by the Court even though the passport or visa of the accused may have expired.

4. Mr. Verma, ld. APP, on the other hand, relies upon the status reports filed on record. He submits that the Status Report of the Ministry of External Affairs clearly shows that the Petitioner had entered India on a fake passport bearing no. A3800007A.

5. In view of the fact that the Petitioner was in possession of two passports issued by the Government of Nigeria i.e. passport bearing no. A3800007A as well as vpassport bearing no. A00333783, vide order dated 10th September, 2020, the Court had directed that the said passports be verified from the High Commission of Nigeria. The Court had also directed the Jail Authorities to permit the Petitioner to complete any formalities required in relation to his application for renewal of the genuine passport to the Nigerian Embassy.

6. The latest status report which has been filed by the ld. APP shows that the Nigerian High Commission has vide its letters dated 13th October, 2020 and 17th November, 2020 stated as under:

“The High Commission of the Federal Republic of Nigeria presents its compliments to the Ministry of External Affairs, Government of India, and has the honour to refer to the latter’s Note. No. VII/407/6/03 dated 7th October, 2020 and inform

that the Passport No. A3800007 belonging to Mr. Anayo Daniel Anyanwu forwarded to the High Commission is insufficient to verify the Passport. The esteemed Ministry is therefore advised to forward the original Passport to the High Commission for proper scrutiny and verification.

The High Commission of the Federal Republic of Nigeria avails itself of this opportunity to renew to the Ministry of External Affairs, Government of India, the assurances of its highest consideration.”

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“I am directed to acknowledge receipt of your letter with reference no. 754/INS/AATS dated 11th November, 2020 on the above subject, and refer its letter no. ND/ADM/164/111 date 10th January, 2020 and also inform the subject reported, his Passport no. A00333787 was lost, hence we issue him a new Passport No. A11331896 as requested by the Court reference letter attached herewith.

Please accept the assurances of the High Commissioner’s highest consideration”

7. A perusal of these two communications of the Nigerian High Commission clearly shows that the High Commission has not verified the passport bearing no. A3800007A and has sought for the original passport for proper scrutiny and verification. However, insofar as the other passport which had expired is concerned, they have issued a fresh passport bearing no. A11331896. The facts in the present case involves not merely the seizure of intermediate quantity of heroin but also travel to India on the basis of an alleged fake passport which despite repeated efforts by the Court has not been confirmed either way till date. The recent communication of the High

Commission of Nigeria dated 17th November, 2020 merely confirms that the passport bearing no. A00333787 was genuine but lost and not the other passport. There is definitely a suspicion that the second passport was either a forged or a fake passport and the matter would require trial.

8. The Petitioner does not have a permanent residence in Delhi, nor has any surety been offered. Moreover, there is an imminent flight risk in this case, as the Petitioner has travelled to India allegedly on a fake passport. In view of these facts, the Court is not inclined to grant bail in this case. Under these circumstances, the plea for bail is accordingly rejected.

9. However, considering that the investigation is concluded, the charge sheet has been filed as also the fact that the Petitioner is a Nigerian national and considering the quantum of heroin seized, the present is a case where trial can be expedited. The Special Court dealing with NDPS cases is directed to expedite the trial in this case and in any event, the trial shall be concluded and the final judgment shall be passed on or before 30th June, 2021.

10. With these observations, the present petition, along with any pending applications is disposed of.

11. Copy of this order be communicated to the District Judge, Dwarka Courts, to bring to the notice of the appropriate Court Id. ASJ (SFTC), Dwarka Courts.

PRATHIBA M. SINGH
JUDGE

NOVEMBER 26, 2020
dj/A