

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-11986-2023

Date of Decision:-20.09.2023

Marc Koffi @ Casmia Okolie.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Garima Sharma, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The Prayer in this petition under Section 482 Cr.PC is for setting aside the order of the Additional Sessions Judge, Gurugram dated 21.02.2023 passed in case FIR No.419 dated 13.12.2022 under Sections 21-B, 29-61-85 of NDPS Act and Section 14 of Foreigners Act registered at Police Station Sector 5, Gurugram in which while allowing the bail application of the petitioner the Trial Court has imposed certain conditions which cannot be fulfilled.

2. The brief facts of the case are that FIR No.419 dated 13.12.2022 under Sections 21-B, 29-61-85 of NDPS Act and Section 14 of Foreigners Act Police Station Sector 5, Gurugram came to be registered against the petitioner and others.

The petitioner sought the concession of bail which was granted to him vide order dated 21.02.2023 (Annexure P-1) and while granting bail to the petitioner, the following condition were imposed:-

“ In the case in hand also, the accused-applicant is in custody since 15.12.2022. Only a sum of Rs.2000/-, which is stated to be the sale proceeds of the contraband, has been recovered from the accused-applicant. As such, keeping in view the totality of the facts and circumstances of the case as well as in view of the observations made in CRM-M-50778 (O&M) mentioned above, the accused-applicant is admitted to bail on his furnishing bail bonds in the sum of Rs.1 lac with one surety in the like amount of a person of his nation, who is permanently residing in India. Papers be tagged with main case file.”

3. The present petition has been filed challenging the aforesaid condition whereby the petitioner has been admitted to bail on his furnishing a surety in the amount of Rs.1 lac of a person of his nation (Nigeria).

4. The Counsel for the petitioner contends that as the petitioner is a citizen of Nigeria it would not be possible for him to procure a surety of a person who is a citizen of Nigeria. However, he states that petitioner is ready and willing to comply with any other conditions imposed by this Court.

5. The Counsel for the State has filed reply dated 12.07.2023, which is taken on record. While referring to the same, he contends that as the petitioner is a Nigerian national and has no permanent residence in India, the conditions had been rightly imposed upon him so as to secure his presence before the Trial Court. He thus contends that there was no merit in this petition and the same was liable to be dismissed.

6. I have heard the learned counsel for the parties.

7. Admittedly, the petitioner was granted the concession of bail.

The challenge in this petition is only to the condition in the bail order that he was to furnish a surety of Nigerian National. As the petitioner is not a

permanent residence of India it is unlikely that he would be able to fulfil that condition. Therefore, the present petition is allowed subject to the following conditions:-

- “(i) The petitioner shall deposit a sum of Rs.2,00,000/- with the Trial Court/Illaqa Magistrate. Upon deposit of the amount, the Trial Court/Illaqa Magistrate shall get the same invested in some FDR with some nationalized bank with a specific direction to Manager of the Bank concerned not to entertain any request for encashment of the same except under orders of the Court. Upon the petitioner being declared innocent or being acquitted and such acquittal attaining finality, the petitioner shall be entitled to proceeds of the said FDR. However, in case the petitioner absconds or is found guilty and is convicted and such conviction attains finality, the same shall be forfeited to the State.
- (ii) The petitioner shall produce two local sureties to the satisfaction of Chief Judicial Magistrate/Duty Magistrate concerned;
- (iii) During the pendency of the Trial the petitioner’s passport shall not be released to him under any circumstances whatsoever;
- (iv) The Embassy of Nigeria in India shall be intimated through proper channel immediately that no alternate/duplicate travel documents are to be provided to the petitioner under any circumstances whatsoever during the pendency of the present Trial;

(v) In addition, the Petitioner shall appear on the first Monday of every month till the conclusion of the trial and inform in writing each time that he is not involved in any other crime other than the present case.”

8. The petition stands disposed of.

(JASJIT SINGH BEDI)
JUDGE

September 20, 2023
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No