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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 403/2024**
AUGUSTINE

..... Petitioner

Through: Mr.Rohan Gupta, Mr.Anoop
Kr. Gupta & Ms.Gunjan Gupta,
Advs.

versus

NARCOTIC CONTROL BUREAU

..... Respondent

Through: Mr.Subhash Bansal, Sr.
Standing Counsel with
Mr.Shashwat Bansal, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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02.04.2024

1. This petition has been filed under Section 440 read with Section 482 of the Code of Criminal Procedure, 1973, (in short, 'Cr.P.C.') praying for modification of the Order dated 03.08.2023 and Order dated 18.11.2023 passed by the learned Additional Sessions Judge/Special Judge, NDPS, Patiala House Courts, New Delhi, in SC No. 39/2018, directing the release of the petitioner on bail in the said case, and subsequently modifying one of the conditions for the petitioner to be released on bail.

2. By the order dated 03.08.2023, the petitioner was directed to be released on bail *inter alia* on the condition that the petitioner shall furnish a personal bond of Rs.1,00,000/- with two sureties of like amount, and that the petitioner shall file a certificate of assurance from



the Embassy/High Commission of Nigeria stating that he shall not leave the country and shall appear before the Court on each and every date of hearing.

3. Subsequently, on an application seeking modification of the conditions of bail, the learned Trial Court passed an order dated 18.11.2023, reducing the amount of personal bond to Rs.50,000/- and to one surety of the like amount. The remaining conditions in the order dated 03.08.2023 were directed to operate.

4. The learned counsel for the petitioner submits that as the petitioner does not have any contact in India, he is unable to arrange for a surety. He further submits that as far as the condition of obtaining a certificate of assurance from the Embassy/High Commission of Nigeria is concerned, the Supreme Court vide its order dated 28.02.2024 passed in SLP (Crl.) 6339-6340/2023 titled ***Frank Vitus v. Narcotics Control Bureau & Ors.***, has dispensed with such condition, by stating that such onerous condition cannot be put as no Embassy will be in a position to give such assurance.

5. The learned senior standing counsel for the respondent, on the other hand, submits that while the condition for obtaining a certificate of assurance may not be insisted upon, the applicant must produce one surety and in failure thereof, at least the cash security of Rs.1,00,000/-, which was the original amount, should be restored.

6. I have considered the submissions made by the learned counsels for the parties.

7. As far as the condition for obtaining a certificate of assurance from the Embassy/High Commission of Nigeria is concerned, in view



of the order passed by the Supreme Court in ***Frank Vitus*** (Supra), the said condition is dispensed with.

8. On the issue of the quantum of personal bond and the surety, keeping in view the peculiar facts of the present case, it is directed that the condition imposed in this regard in the order dated 03.08.2023, and as modified in the order dated 18.11.2023, of the learned Additional Session Judge, shall stand modified to the limited extent that instead of a personal bond of a sum of Rs.50,000/- with one like surety, the petitioner be released on bail on making a cash deposit of Rs.1,00,000/- with the learned Trial Court. All other conditions except the above two, as mentioned in the order dated 03.08.2023, shall operate as conditions for the release of the petitioner on bail.

9. The petition is disposed of in the above terms.

10. Copy of this order be sent to the Jail Superintendent for information and necessary compliance.

NAVIN CHAWLA, J

APRIL 2, 2024/rv/RP

Click here to check corrigendum, if any