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

+ CRL.M.C. 1750/2024

CHARLES ONKEKACHI NNAEMEKE

..... Petitioner

Through: Mr. Aniruddha Singh Rajavat and
Mr. Ankur Jain.

versus

NARCOTICS CONTROL BUREAU

..... Respondent

Through: Mr. Raghav Bansal, Advocate for
NCB.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **16.04.2024**

1. This petition has been filed on behalf of the Petitioner Charles Onkekachi Nnaemeke S/o Sh. Nnaemeke, seeking modification of order dated 22.01.2024 passed by learned ASJ/Special Judge, NDPS, Patiala House Courts, New Delhi, in SC No. 58/2019 titled '*NCB v. Charles Onkekachi Nnaemeka*' arising out of Crime No. VIII/21/DZU/2019 of 2019 under Section 21/61 of Narcotic Drugs and Psychotropic Substances Act, 1985, PS: Narcotic Control Bureau.

2. It is the case of the Petitioner that SC No.58/2019 was registered on 30.01.2019 and he has been in judicial custody since 06.08.2018. On the ground that 11 prosecution witnesses had been cited in the list of witnesses and only 3 had been examined and the trial was not likely to conclude soon, learned Special Judge admitted the Petitioner to bail vide order dated 18.08.2023, subject to furnishing a personal bond in the sum of Rs.1 lac with



two sureties of the like amount and subject to further conditions, one of them being furnishing a certificate of assurance from the Embassy/High Commission of Nigeria, certifying that Petitioner shall not leave the country and shall appear before the Court on every date of hearing. Petitioner thereafter filed an application for modification of the order, which was partly allowed vide order dated 18.01.2024, permitting the Petitioner to deposit cash in lieu of the surety in the sum of Rs.2 lacs. Another application was filed on 19.01.2024 under Section 440 Cr.P.C. seeking indulgence of the Court to reduce the cash surety amount, which was also allowed by the learned Court on 22.01.2024, reducing the cash surety amount to Rs.1,50,000/-.

3. It is submitted by the learned counsel for the Petitioner that Petitioner is still languishing in jail despite a bail order in his favour since 18.08.2023, on account of his being unable to furnish a certificate from the Embassy/High Commission of Nigeria. It is urged that it is not in the hands of the Petitioner or under his control to ensure that the certificate is issued by the Embassy/High Commission and therefore, this onerous condition be waived so that the Petitioner is released on bail. In support of this plea, learned counsel relies on an order passed on by the Supreme Court on 23.02.2024 in ***Frank Vitus v. Narcotics Control Bureau & Ors., SLP (Crl.) Nos. 6339-6340/2023***, wherein dealing with a similar issue, the Supreme Court observed that *prima facie*, such an onerous condition cannot be imposed as no Embassy will be in a position to give such assurance and in these circumstances, Supreme Court directed release of the Petitioner therein on other conditions.



4. Learned counsel for the Respondent candidly states that in view of the observations of the Supreme Court, he does not oppose the waiver of the bail condition pertaining to furnishing of a certificate of assurance from the Embassy/High Commission of Nigeria.
5. Having heard learned counsels for the parties and in view of the observations of the Supreme Court in ***Frank Vitus (supra)***, this Court is of the view that Petitioner has made out a case for waiver/dispensation of the bail condition imposed vide order dated 18.08.2023 *qua* furnishing of a certificate of assurance. Accordingly, it is directed that the Petitioner shall be released on bail subject to his furnishing cash surety of Rs.1,50,000/- and local address before his release as well as subject to all other conditions imposed vide order dated 18.08.2023 enumerated from Serial Nos.1 to 8. Orders dated 18.08.2023, 18.01.2024 and 22.01.2024 shall stand modified to the aforesaid extent.
6. Petition stands disposed of.
7. Copy of the order be sent to the concerned Jail Superintendent for information and necessary compliance.

JYOTI SINGH, J

APRIL 16, 2024/shivam