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

% Reserved on : 08.10.2024

Pronounced on : 18.12.2024

\+ **CRL.M.C. 3141/2024**

NARCOTICS CONTROL BUREAU .....Petitioner

Through: Mr. Subhash Bansal, Sr. Standing Counsel for NCB with Mr. Shashwat Bansal, Advocate

versus

JOHN OBINNA@ FLORENCE CHINEDU IHEDIGBO .....Respondent

Through: Mohd. Suza Faisal, Advocate

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

(O R D E R)

1. The present petition under Section 482 Cr.P.C has been filed on behalf of the NCB seeking setting aside of order dated 25.11.2023 passed by Ld. Special Judge (NDPS Act), Patiala House Courts, New Delhi in SC. No. 207/2022 and NCB Case No. VIII/72/DZU/2021 titled as "NCB *v*. John Obinna @ Florentus Chinedu Ihedigbo" vide which the seized case property/currency amounting to Rs 1,58,000/- was directed to be released.

2. Pithily put, as per the prosecution case, on 11.11.2021, the I.O. received a secret information that two Nigerian Nationals namely John Obinna and Earnest Opoku residing at House No. C-84, 3rd Floor Ganesh Nagar, Tilak Nagar New Delhi were engaged in drug business and search of their house may lead to recovery of huge quantity of Narcotics drug. The NCB team reached at the aforementioned premises. The Respondent was

present and found residing with a friend namely Ernest Opoku. Upon search of the said premises, five polythene bags containing small quantities of substance were recovered, four of which tested positive for narcotic drugs while the test on the fifth bag was inconclusive and the substance could not be identified.

Further, during the search of bedroom, Indian currency amounting to Rs. 1,58,000/- was also found from the cupboard and believing that this money was derived from the proceeds of illicit trafficking of narcotic drugs and psychotropic substances, the same was seized.

3. Learned Counsel for the petitioner submits that the currency of Rs. 1,58,000/- was seized from the respondent's premises during legal process through seizure memo in the presence of witnesses and the same being coupled with statement tendered by said accused, is incriminating evidence against the accused. Thus, the same needs to be preserved and produced during trial. It cannot be released. It is submitted that interfering with the seized/case property amounts to distorting the prosecution evidence at this crucial stage without conclusion of Trial, and accordingly, the impugned order is liable to be set aside.

4. Learned Counsel for the respondent, on the other hand, has defended the impugned order by stating that the currency seized from the respondent's premises is not part of the sale proceeds of the drugs as alleged and was seized merely on the grounds that it was recovered alongwith the aforementioned substance. Rather, the seized currency was meant for the personal daily needs of the respondent.

5. The Trial Court vide the impugned order categorically noted that the seized currency, which was initially lying in the *godown* was subsequently

deposited in a nationalized bank by the petitioner agency in the form of an FDR, however was never presented before the competent authority. No conclusive evidence has been placed on record to show that the said seized currency from the respondent's premises is part of the sale proceeds of the drugs as alleged by the petitioner agency. This Court also takes note of the statement made by the learned counsel for the respondent that the respondent is willing to offer an indemnity of the like amount with the Trial Court. Let the same be furnished before the Trial Court.

6. In light of the aforenoted facts and circumstances as well as the statement made on behalf of the respondent, this Court finds no ground to interfere with the order of the Special Judge. Accordingly, the petition is dismissed.

MANOJ KUMAR OHRI, J

DECEMBER 18, 2024

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