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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 4850/2024 & CRL.M.A. 18243/2024, 18245/2024**
DIRECTORATE OF REVENUE INTELLIGENCE

.....Petitioner
Through: Mr. Satish Aggarwala, Standing
Counsel with Mr. Gagan Vaswani,
Advocate.
versus

JOHN MATHEW ALIAS IFEANYI TITUS UCHEJIGBO
.....Respondent
Through: Mr. Mukesh Bhardwaj, Advocate
(through VC)

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

% **ORDER**
03.12.2024

1. By way of present petition, the petitioner seeks to assail the order dated 28.05.2024 passed by the learned Special Judge, NDPS, Saket, New Delhi, whereby the respondent was granted bail.
2. While issuing the notice, the Predecessor Bench, in the light of the submission noted therein, stayed the operation of the impugned order.
3. While arguing the present petition, learned Standing Counsel for the petitioner has premised the challenge on two grounds, firstly that the respondent has admitted in his disclosure statement to being involved in other cases of similar transaction, secondly, WhatsApp chats from the mobile phone seized from the respondent would show that he was in



constant touch with the main accused. He further submits that the forensic analysis of the mobile phone seized from the respondent and the main accused, *Benedict Owino Sawo*, was carried out. It is stated that the mobile phone seized from the respondent was, in fact, obtained from a third person who is now untraceable. A certificate issued under Section 65-B Indian Evidence Act was also furnished. It is further contended that the respondent has earlier been arrayed as an accused in FIR No. 438/2021 registered under Section 14 of the Foreigners Act. Lastly, he, on instructions, concedes to the fact that there is neither any recovery of the contraband nor the WhatsApp chats specifically refer to any contraband by name.

4. Learned counsel for the respondent, on the other hand, while defending the impugned order submits that the impugned order came to be passed by noting that the main accused, *Benedict Owino Sawo*, had arrived at IGI Airport from Addis Ababa and upon intercepting him, 831 gms of *cocaine* was found concealed in his body in the form of 68 capsules. At the instance of the main accused, the present applicant came to be apprehended. The prosecution has alleged that the respondent as well as main accused conspired to smuggle the contraband into India. It was further noted that the respondent would assist the main accused in excretion of the capsules hidden in his body and thereafter, the contraband was supplied to other persons under the instructions of his handler. Though, it was argued that the respondent had admitted to having received other persons in the past in a similar fashion, however, there is no further material besides his disclosure. In support of the said submissions, reliance has been placed on the decision of Supreme Court in *Toofan Singh vs. State of Tamil Nadu* reported as (2021) 4 SCC 1 to submit that the reliance cannot be solely placed on



disclosures without additional corroborative evidence. Lastly, he submits that there is no other involvement of the respondent under NDPS Act.

5. On a specific query, Mr. Aggarwala, learned standing counsel confirms that there is no other involvement of the respondent under the NDPS Act. He has also failed to refer to any specific message in the WhatsApp chat that specifically and conclusively refers to any particular contraband. His submission that the WhatsApp chat indirectly refers to the contraband, is misplaced.

6. In the present case, prosecution complaint came to be filed on 26.03.2024 and supplementary prosecution complaint was filed on 06.06.2024. It is further submitted that charge stands framed. Considering the aforesaid facts and circumstances, I find no merit in the challenge to the impugned order. Accordingly, the present petition stands dismissed.

7. Besides the conditions mentioned in the impugned order, the respondent shall also surrender his passport, if not already done.

8. A copy of this order be communicated to the respondent through concerned Jail Superintendent.

MANOJ KUMAR OHRI, J

DECEMBER 03, 2024/ssc