



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

% Reserved on : 08.10.2024
Pronounced on : 18.12.2024

+ **CRL.M.C. 1669/2024**

NARCOTICS CONTROL BUREAU

.....Petitioner

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

versus

MARTIN CHIKAMMA NWOKORIE

.....Respondent

Through: Mr. Rajiv Kumar and Mr. Ajay Kumar,
Advs.

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 14.09.2023 passed by Ld. Special Judge (NDPS Act), Patiala House Courts, New Delhi in SC. No. 09/2021 and NCB Case No. VIII/33/DZU/2020 titled as "NCB v. Martin Chikamma Nwokorie & Anr." vide which the seized case property/currency amounting to Rs 2,50,000/- was directed to be released.
2. Pithily put, as per the prosecution case, on 10.07.2020 the DG, NCB issued an order to undertake a controlled delivery operation of the parcel Airway Bill Nos. 3449436874 and 3449436922 believed to be containing Narcotics and for that purpose directed Sh. Rampal, Intelligence Officer,



NCB-DZU, New Delhi to take action as per NDPS Act. In the presence of public witnesses Sh. Neeraj Negi and Sh. Praveen Kumar, the said parcel AWB No. 3449436922 was inspected and was found intact in a carton box wrapped/taped with Aramex Tape. The carton box was found to contain six smaller sized cardboard boxes wrapped in Aramex Tape. On opening the six small boxes, all were found to contain LED Lights and on checking/opening the LED Lights, an off-white substance was found in each light concealed beneath the panel of the lights. The substance recovered from the packets tested positive for Heroin and the weight of the said substance was recorded as 500 grams.

On 14.07.2020, the I.O., NCB received the information from office of Aramex situated at *Banmoli* Village, New Delhi that the intended consignee i.e. *Lhingneihat Lhouvum* has requested to collect the consignment AWB No. 3449436922 from Delhi itself. The Aramex Staff in the presence of independent witnesses had delivered the parcel to *Lhingneihat Lhouvum* upon. She disclosed that her partner namely *Nwokorie Martin Chikammal* respondent is the real consignee.

The petitioner *Martin* vide his voluntary statement revealed the factual details and also stated that he was living with his wife *Lhingneihat Lhouvum* at F-1/22, 3rd Floor, Mohan Garden Uttam Nagar, New Delhi on rent. Upon disclosures made during enquiry on 16-07-2020, the NCB team alongwith the petitioner went to the said address. During search a packet containing off-white substance suspected to be *heroin* and weighing 360 grams was seized. Besides from a trolley bag, bundles of Indian currency amounting to Rs. 2,50,000/- were found. Also, few documents and a Scooty allegedly purchased from the drug-money were found. The Indian currency notes of



Rs. 2,50,000/- and other documents were all seized vide Panchnama dated 16.07.2020.

3. Learned Counsel for the petitioner submits that the currency of Rs. 2,50,000/- 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 off-white substance weighing 360 gm and alleged to be *heroin* recovered from the house of the respondent, on testing by CRCL gave negative result for the presence of any narcotic drugs. It is further stated that as per the admitted case of the NCB, 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 off-white substance. Rather, the said amount is hard earned money sent by the parents of the respondent from Nigeria to bear daily need expenses such.

5. The Trial Court vide the impugned order, while taking into account the reply filed by the NCB, categorically noted that the seized currency is not a part of the financial investigation and is also not covered under chapter 5A NDPS Act which governs the forfeiture of illegally acquired property. It is also observed that the said seized property has also not been recovered by the



NCB as part of the *Jamatalashi* but was recovered during the subsequent search and seizure conducted at the respondent's house. The said currency was seized along with 360 gms of suspected heroin, however subsequently vide CRCL result No1/ND/R/2020/CLD 329(N) dated 07.09.2020 and FSL Hyderabad result bearing No. CFSL(H) 800/Narc/57/2021 dated 26.04.2021, the recovered substance has tested negative for any narcotic drug. The applicant, admittedly, has since also been released on regular bail in the present matter. 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 aforementioned 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
(JUDGE)

DECEMBER 18, 2024

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