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IN THE HIGH COURT OF DELHI AT NEW DELHI

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BAIL APPLN. 365/2025

KONATE DJAKARDJA@ JOHNBOSCO EZECHUKWU

.....Petitioner

Through: Mr. Anirudh Singh Rajawat, Mr.
Ankur Jain, Mr. Aryan, Ms. Prachi
Vats and Mr. Rohan Kumar,
Advocates

versus

CENTRAL BUREAU OF NARCOTICS

.....Respondent

Through: Mr. Satish Aggarwala, SPP

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

06.08.2025

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1. The applicant herein is national of Nigeria and under incarceration since 26.02.2023 for alleged offences attracting Sections 8/21/22/28/29/30&35 of the NDPS, Act vide a case registered against him by the respondent/Central Bureau of Narcotics vide SC no. 2901/2023. He seeks concession of bail stating that he has been falsely implicated.
2. The case set up by the prosecution as per the version in the complaint, inter alia, in-verbatim, is as below :-

“a) That on 25.02.2023 as per the information received through secret information that a person namely ‘Don Sam’ is operating a racket of illicit sale and purchase of contrabands MDMA, Cocaine and other Narcotics substances through his peddlers in the surroundings of Chhatarpur and other areas of Delhi A true copy of the Complaint dated 25.08.2023 for offences punishable under sections 8,21,22,28,29,30 & 25 of the NDPS Act 1985 made by complainant Sh. Manoj Narwal is annexed herewith and marked as ANNEXURE A2 at pages [32 to 64].

b) As per the directions of Sh. Tilak Singh Sub Inspector, CBN, Gwalior was directed by Sh. S.P Singh Superintendent (Prev.) to



constitute a preventive party and take necessary action immediately.

c) That the preventive team reached the spot near Hotel Lily White and in the meanwhile a scooty bearing No. DL 4S DG 2552, TVS Jupiter was seen coming from wrong side of the road. The preventive team member managed to stop the scooty. After the search of the scooty a person who is identified namely as Henry, who is also a Co- Accused in the present case.

d) That Henry was searched and some contraband was seized on him and his scooty. Thereafter he was enquired about his current residence.

e) That as per the prosecution story preventive team reached on instructions of Henry taking them to his residence E-5, Chhatarpur Extension, where they found a person at the parking area of the building on asking Henry he identified the said person as his friend namely Konate Djakaradja. Immediately the preventive team stopped him and told him about the recovery of illicit contraband from the possession of Henry.

f) That, the preventing team caught and apprehended the accused with Scooty at the parking area of the building. That as per the chargesheet, after giving a written notice u/s 50 of NDPS. The notice was served upon Konate Djakaradja by Shri Tilak Singh, Sup Inspector and Djakaradja gave consent in writing on original notice for his search.

A true copy of the notice under Section 50 NDPS Act 1985 tendered to the applicant is annexed herewith and marked as ANNEXURE A-3.

g) In the presence of police witness, Konate Djakaradja gave his consent for search of his scooty in which nothing incriminating was found. Thereafter during his personal search from his underwear 9 small packets of Cocaine which on weighing stands 12.5 grams, 2 packets containing pink pills which stands 6 grams pills on weighing (MDMA Ecstasy Pills) and 13 small packets weighing 18 grams of MDMA Ecstasy crystal white form were recovered from his possession.

h) Where after as per the prosecution story the accused person resided at the first floor of the said building with Ubaka. The applicant Konate Djakaradja brought the raiding team at a



residence at First floor of the said building. The Door was knocked repeatedly but not open the door for a long time. After several requests the preventive team along with the lady staff and both the accused persons entered the house and found present a lady inside the house who on asking stated her name as one sophia. Thereafter the search was carried out at the residence. During the search drugs powder weighting 113gm of Psychotropic Drug Powder kept in two white colored transparent polythene was recovered from the said residence of Konate Djakaradja. The said recovered powder kept in two white colour transparent polythene was also packed in white polythene covered by yellow envelop A true copy of the Seizure-Panchnama dated 27.02.2023 is hereby annexed and marked as ANNEXURE A-4.

i) That there are total 9 witnesses but not a single witnesses have been examined by the CBN to trace the truth and consequently no other witness has been made part of the CBN proceeding, even no video-graph and photography was done by officers, who may have been examined and witnessed the entire scene and have taken part in the search and seizure of the accused.

j) That it is apposite to state herein that the petitioner has been in judicial custody since then and a time of roughly 2 years have elapsed since his arrest.”

3. In view of the aforesaid backdrop, heard and perused the case file, as well as an order dated 25.07.2023 passed by the learned Sessions Judge to reject the last bail application of the applicant herein.

4. Having gone through the order passed by the learned Sessions Judge and the reasons assigned therein, with which I am in agreement, at the very threshold, I may observe that it is not a fit case for bail. There are other reasons as well, which are enumerated hereinafter.

5. The question is not limited to the alleged initial recovery of a comparatively small quantity—17 grams of MDMA and 73 grams of psychotropic powder—from the applicant. The crucial factor is the



subsequent recoveries made during the course of investigation after the applicant was taken into custody, which also implicate the applicant further and reflect a deeper involvement in organized drug trafficking. These subsequent recoveries cannot be ignored, as they reveal a significant quantity of narcotic and psychotropic substances. This demonstrates the applicant's active role in a larger network and creates a strong likelihood of reoffending if released on bail. Therefore, the rigors of Section 37 of the NDPS Act squarely apply, leaving no scope for concessional bail, at this stage.

6. In this context reference may be had to paragraphs 8, 9 and 10 of the report dated 05.08.2025 filed during the course of the day which read as under:

“8. The officers also recovered and seized Cocaine weighing 12.5 grams and 6 grams MDMA ecstasy pills and 18 grams MDMA ecstasy crystal white form from the possession of Konate Djakaradja.

9. In follow up action, the officers also recovered and seized 113 grams psychotropic drug powder from 1st Floor of E-5, Suman Chowk, Chattarpur Extension, New Delhi.

10. In further follow up action, the officers also recovered and seized 200 grams suspected white psychotropic drug powder and weighing machine from 2nd Floor, F-173 (3), Near Kundan Singh School, Chattarpur Extension, New Delhi.”

7. Apart from the above, the material collected against the applicant does not permit this Court to observe that the first statutory condition under Section 37—that the applicant is not likely to be guilty—is satisfied. On the contrary, the evidence strongly points to active participation in a continuing illegal trade.

8. Applying the twin test under Section 37 of the NDPS Act, the



applicant fails on both counts:

(i) There is no basis at this stage to conclude that the applicant is not guilty of the alleged offence;

and

(ii) that the applicant will not commit an offence while on bail.

9. Thus, the statutory bar under Section 37 operates against the applicant making the grant of bail impermissible at this stage. Accordingly, on the touch stone of the twin test, *ibid*, on both counts the petitioner fails.

10. As an upshot, no ground for bail, the application is thus dismissed.

ARUN MONGA, J

AUGUST 6, 2025/HD/SV