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

+ **BAIL APPLN. 876/2025**

LIVI EZE

.....Petitioner

Through: Mr. Meghan, Adv.
versus

STATE OF NCT OF DELHI

.....Respondent

Through: Ms. Shubhi Gupta, APP for the State.
SI Gajendrer Mathur, P.S. Tilak
Nagar.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

22.04.2025

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1. This hearing has been done through hybrid mode.
2. The present application under Section 483 read with Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (for short, 'BNSS') has been filed seeking regular bail in case FIR No. 141/2024 under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act') and Section 14 of the Foreigners Act, 1946 registered at P.S. Tilak Nagar.
3. The case of the prosecution is that on 12.03.2024 at around 12:20 AM, when ASI Sukhpal was present in the Police Station Tilak Nagar, an informer came and informed him that one person of African origin, who supplies *heroin*, would come at around 02-02:30 AM, near Pillar No. 26, Outer Ring Road Service Lane, near CRPF Camp Wall, Tilak Nagar for supplying *heroin* and if raid is conducted, the said drug peddler can be apprehended. Thereafter, ASI Sukhpal took the said informer to Inspector Bineet Kumar, SHO, Tilak



Nagar at Police Post Tilak Vihar for verification and after verification, at 12:45 AM, ACP, Tilak Nagar, was apprised regarding the aforesaid information by SHO, Inspector Bineet, who directed him to take legal action on the basis of the same. Subsequently, the said information was recorded *vide* GD No. 8 dated 12.03.2024 at 01:13 AM at Police Post Tilak Vihar and a raiding party was constituted. The said raiding party went to the spot and requested some passersby to join the proceedings, however, no one agreed. At 02:10 AM, one auto was seen coming towards Peergarhi and one person of African origin alighted from the said auto near Metro Pillar No. 28 and the driver of the auto took a u-turn. At the instance of the informer, the said person was identified as Livi Eze, the present applicant. Thereafter, notice under Section 50 the NDPS Act was served on him to get his personal search conducted and he refused to get his personal search conducted before the magistrate. On the search of the present applicant, one transparent polythene from the right pocket of his pants containing brownish crystals was recovered and on testing of the same, it tested positive for *heroin* and on measuring, it weighed 91 grams. The said contraband was seized and taken in police custody and afterwards, sent to FSL for examination. On completion of investigation, chargesheet was filed before the Court of competent jurisdiction for the offences punishable under Section 21 of the NDPS Act and Section 14 of the Foreigners Act, 1946.

4. Learned counsel for the applicant submits that the quantity of the contraband was intermediate in nature, and therefore, the rigors of Section 37 of the NDPS are not applicable to the present case. It is further submitted that charges in the present case have been framed by the learned Special Court and prosecution evidence is going on. It is further submitted that the applicant has



been in custody since 12.03.2024 and has undergone incarceration for more than 1 year and no useful purpose will be served by keeping him in further incarceration.

5. *Per contra*, learned APP for the State submits that the allegations made in the present case against the applicant are serious in nature and being a foreigner, the apprehension of the applicant fleeing cannot be ruled out. It is further submitted that further investigation in the present case has revealed that the applicant's visa extension was found forged.

6. The applicant in the present case was arrested on 12.03.2024. Investigation is complete and the chargesheet stands filed. It is further observed that the charges have been framed against the present applicant and he has been in custody for 1 year 1 month 6 days. The applicant is not stated to be involved in any other previous offence including that under NDPS Act. The quantity recovered from the applicant is intermediate in nature, and thus, rigors of Section 37 of the NDPS Act would not be applicable.

7. In totality of the facts and circumstances of the case, the present application is allowed and he is directed to be released on bail on his furnishing a personal bond of Rs. 50,000/- with one surety of like amount, to the satisfaction of the learned Trial Court/Link Court, further subject to following conditions: -

- i. The applicant shall not leave India without prior permission of the learned Trial Court.
- ii. The applicant shall intimate the learned Trial Court by way of an affidavit and to the Investigating Officer regarding any change in residential address.
- iii. The applicant shall appear before the learned Trial Court as and



when the matter is taken up for hearing.

iv. The applicant is directed to give his mobile number to the Investigating Officer and keep it operational at all times.

v. The applicant shall not, directly or indirectly, tamper with evidence or try to influence the witness in any manner.

8. The application is allowed and disposed of accordingly.

9. Pending applications, if any, also stand disposed of.

10. Needless to state that, nothing mentioned hereinabove, is an opinion on the merits of the case and any observations made herein are only for the purpose of the present bail application.

11. Copy of the order be sent to the concerned Jail Superintendent for necessary information and compliance.

12. Order be uploaded on the website of this court *forthwith*.

AMIT SHARMA, J

APRIL 22, 2025/bsr/ns

Click here to check corrigendum, if any