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***IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **BAIL APPLN. 899/2025**

FARIDAH NAKANWAGIPetitioner
Through: Mr.Meghan, Advocate

versus

CUSTOMSRespondent
Through: Mr.Aditya Singla, SSC with Ms.Arya
Suresh, Advocate

CORAM:
HON'BLE MR. JUSTICE ARUN MONGA

ORDER

% **15.09.2025**

Crl.M.A. Nos. 6671-72/2025

Allowed, subject to all just exceptions.

The applications stand disposed of.

Bail Appln. No. 899/2025

1. Claiming himself to be falsely implicated, the applicant herein seeks indulgence of this Court for grant of regular bail during pendency of the trial in the criminal proceedings arising out of FILE/C No. VIII(AP)(10)P&I/3415-C/ARRIVAL/2022 dated 14.10.2022 for the offences punishable under Sections 8, 21, 23 & 28 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ('NDPS Act'), registered at Police Customs, Delhi.
2. Briefly speaking, *per* FIR/File, Ms. Faridah Nakanwagi, a Ugandan national, arrived at IGI Airport, Delhi, on 10.04.2022 from Addis Ababa. During customs screening, she was suspected of carrying narcotics and



voluntarily consented to a search. Subsequently, she was taken to RML Hospital, where 27 capsules containing cocaine (totaling approximately 317 grams) were recovered from her body. All recovered items, including personal effects and capsules, were sealed, documented, and tested positive for cocaine. Panch witnesses and customs officers verified the recovery and sealing. Her voluntary statement under the NDPS Act admitted possession and attempted import of cocaine. The case has been registered under Sections 8, 21, 23, and 28 of the NDPS Act, 1985.

3. In the aforesaid backdrop, I have heard the rival contentions and perused the case file.

4. Learned counsel for the applicant would submit that the evidence of PW-4 is contrary to the prosecution story, indicating manipulation of records and false implication, as she was present at the airport during apprehension and at the hospital during alleged recovery, yet her testimony raises serious doubts about the custody and handling of the capsules (Annexures P-2 to P-6). Critical procedural lapses are evident, including discrepancies in notices, capsule color, and handling memos, while the Detention Receipt and Panchanama show signs of document manipulation.

4.1 Learned counsel would further submit that the applicant has already spent over 3 years, 4 months in custody, the investigation is complete, and the chargesheet has been filed, rendering further detention purposeless. No offence has been committed by the applicant, who is innocent, has clean antecedents, and faces racial discrimination and denial of due process. Reliance is placed on ***P. Chidambaram v. CBI/ED: (2020) 13 SCC 337*** support release where there is no risk of flight or tampering with evidence.

4.2 He would also submit that the applicant is willing to cooperate with



investigation, furnish reliable surety, and abide by all conditions imposed by the Court, while the trial is expected to be protracted. In view of the above, it is submitted that the applicant deserves to be granted bail, as continued custody serves no purpose and bail should be the rule, jail the exception.

5. Learned APP for the State would oppose the bail plea arguing that the applicant possessed 317 grams of cocaine, a “commercial quantity” under the NDPS Act, attracting an absolute bar on bail under Section 37(1)(b)(ii). The CRCL report, voluntary statement, recovery panchnamas, and witness testimonies confirm the offence. Minor procedural discrepancies or capsule colour variations are immaterial. The accused, being a foreign national, poses a serious flight risk. Judicial precedents emphasize societal interest in denying bail to drug traffickers. The trial is ongoing with no unreasonable delay, and releasing the accused could compromise evidence and witnesses. Bail must therefore be denied.

6. Having heard, I am of the view that there may be some substance in some of the arguments on merits addressed by the learned counsel for the applicant but the same is matter of trial. However, I am of the view that at this stage, in light thereof, it is a fit case for bail. Let us see how.

7. *Prima facie* PW-4’s testimony is contradictory to the prosecution’s case. The applicant has already spent over three years in custody. Applicant, a lady, has no criminal record, and also alleges racial discrimination, which cannot be ruled out.

8. The applicant was arrested on 10.04.2022 and thus has already remained in custody for a period of approximately 3 year, 4 months and the progress of the trial has been at snail’s pace. This prolonged incarceration, combined with the pace of proceedings, is also a contributory factor in the



present case for granting bail.

9. Applicant is being kept in preventive custody merely on an unfounded suspicion that if she is let out, she may either tamper with evidence and/ or influence witnesses. There is no probability of tampering with evidence as the same has already been seized by the investigating agency. As regards witnesses, they are all official and therefore, unlikely to be influenced, even if there is any such apprehension by the prosecution.

10. One of the primary objects of bail is merely to secure the presence of the accused during trial. The applicant statedly has no criminal antecedents, deep roots in the society and poses no flight risk.

11. As an upshot and taking a wholesome view of the matter, the applicant is directed to be released on bail on her furnishing personal bond with solvent surety of like amount to the satisfaction of the Trial Court/Duty Judge concerned as the case may be, subject to the other usual conditions to be imposed by the learned Trial Court/Duty Court.

12. Apart from the usual conditions, the learned Trial Court shall take specific undertaking from the applicant that she will not leave the territorial jurisdiction of NCR Delhi without the permission of the trial Court. Her passport has already been impounded so in any case she cannot leave the country. Apart therefrom, she shall also furnish the details of her residential address in Delhi where she intends to stay upon grant of bail. The applicant shall also give an undertaking to the learned Trial Court that she shall report to the Investigating Officer every two weeks during pendency of the trial.

13. Any observation made herein above is only for the purpose of disposing of the instant bail application and not to be construed, in any



manner, as any expression on the merits of the pending case and the trial shall proceed without being influenced either way by the same. In case the applicant is found involved in any repeat offence while on bail, the prosecution shall be at liberty to seek cancellation of the bail granted to the applicant in the present case vide instant order.

14. Accordingly, the bail application alongwith pending application stands disposed of.

ARUN MONGA, J

SEPTEMBER 15, 2025/SV