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

+ **BAIL APPLN. 1318/2025**

JOHN OBINNA@ FLORENTUS CHINEDUPetitioner

Through: **Mr. Mohd. Suza Faisal, Advocate**

versus

NCB

.....Respondent

Through: **Mr. Arun Khatri, SSC for NCB with
Ms. Shelly Dixit, Advocate.**

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ORDER

% **19.08.2025**

1. Applicant is before this Court seeking regular bail under Section 483 Bharatiya Nagarik Suraksha Sanhita, 2023, arising out of NCB Case No. VIII/72/DZU/2021 under Sections 21/29 of NDPS Act.

2. Per complaint, on 11.11.2021, the I.O, received a secret information that two Nigerian nationals, including the applicant and co-accused (Ernest Opoku), were engaged in drug business.

2.1 Thereafter, a team was constituted including the I.O. Upon reaching the premises, the team met two persons of African origin who identified themselves as the applicant and co-accused, both of whom consented to the search of their apartment. During the search of the kitchen, a white cloth bag marked "Chauhan Dry Cleaner" was found containing five transparent polythene packets.

2.2 On opening the first packet, 440 lemon-coloured pills, stated to be



MDMA (Ecstasy), were recovered. This was stitched into a pullanda and marked as “A.” The second packet contained 13 grams of white crystalline substance stated to be methamphetamine, tested positive with the field kit, sealed, and marked “B.” The third packet contained 50 grams of white crystalline substance stated to be ephedrine, tested positive, sealed, and marked “C.” The fourth packet contained 12 grams of off-white semi-powdery substance stated to be heroin, tested positive, sealed, and marked “D.” The fifth packet contained 45 grams of unidentified white powdery substance, inconclusive on testing, stitched into a pullanda and marked “E.”

2.3 In addition, empty polythene packets, a weighing machine, and cellophane tape were found, tied and sealed as “F.” Indian currency amounting to Rs. 1,58,000, believed to be proceeds of illicit trafficking, was recovered from a cupboard in the bedroom, tied, sealed, and marked “G.” Passports of the accused, mobile phones, one laptop, and documents were also recovered, details of which are recorded in the panchnama. White paper slips containing dated signatures of IO Sh. Vishesh Nagar, the accused persons, and the witnesses were pasted on all packets marked A to G, sealed with hot wax bearing the facsimile of the NCB seal.

2.4 Subsequently, a panchnama was prepared at the spot, read over to the applicant and witnesses, and signed by them. The proceedings concluded and notices dated 11.11.2021 under Section 67 of the NDPS Act were served upon the applicant and co-accused, directing them to appear before the NCB office to give their statements.

2.5 Thereafter, the seized case properties were deposited in the malkhana. A seizure report under Section 57 NDPS Act was submitted by Sh. Vishesh Nagar, IO, to Sh. Amit Kumar Tiwary, Superintendent, NCB/DZU. Pursuant



to summons, both accused appeared and gave voluntary statements under Section 67 NDPS Act in their own handwriting, admitting conscious knowledge, wilful possession, and involvement in the offence. Subsequently, both were arrested on 11.11.2021 by Sh. Sachin Kumar, I.O.

3. Case set up in the petition and so are the arguments of the learned counsel for the petitioner, inter alia, is that the applicant has been falsely implicated and has been in custody since 11.11.2021, approximately three years and 9 months. He would contend that despite a prolonged incarceration the investigation and trial have not progressed at a reasonable pace, thereby causing undue hardship. Charges have not yet been framed, sixteen prosecution witnesses remain to be examined, and the trial is likely to take considerable time. Such delay infringes upon the applicant's fundamental right to a speedy trial under Article 21 of the Constitution. He would place reliance on orders of the Supreme Court in ***Suman SK @ Samirul Islam v. State of West Bengal*** [order dated 01.03.2024 in Criminal Appeal No. 1291/2024] and ***Jitendra Jain v. NCB*** [order dated 16.12.2022 in Special Leave to Appeal (Crl.) No.8900/2022], which recognize that bail may be granted even in commercial quantity cases where trial delay results in prejudice to the accused.

3.1 That the recovery relied upon by the prosecution is shown to have been effected from a house not belonging to the applicant, of which he had no knowledge. No nexus or connection has been established between the applicant and the co-accused with regard to the alleged recovery. He would further contend that Section 52A proceedings were conducted after a delay of one month, in violation of the directions of the Delhi High Court in ***Kashif v. NCB*** in BA No. 253/2023.



3.2 That the applicant is a person clean antecedents, and no prior criminal record. He would urge that the applicant is neither a flight risk nor in a position to tamper with evidence or influence witnesses and that he is a respectable, peace-loving individual with stable social roots, whose presence can be secured whenever required by the Court or the Investigating Agency.

4. Per contra, according to the learned APP, during the seizure proceedings, two passports were recovered, one in the name of the applicant and another in the name of co-accused Florentus Chinedu Ihedigbo, both bearing the applicant's photograph. Upon verification, it was found that Passport No. A11516515 issued in the applicant's name was genuine, whereas Passport No. A05448293 in the name of the co-accused was fake, and the visa affixed on it had not been issued by the Indian High Commission at Lagos.

4.1. The landlord of the premises stated that the flat had been rented in the name of Stella Muthoni, wife of the applicant, and confirmed that the co-accused was also residing there. The charge sheet has been filed which show there is enough incriminating material against the applicant. The trial is presently pending, and fifteen witnesses have been cited, including two independent witnesses to the search and seizure.

4.2. It is a big racket as the accused were actively engaged in the trafficking of narcotic substances in conspiracy with others. Since the recovery involves a commercial quantity, the bar under Section 37 of the NDPS Act applies. Being foreign nationals without permanent residence in India, there is a grave likelihood of their absconding or tampering with evidence if released on bail. Further presumptions under Sections 35 and 54 of the NDPS Act are attracted and the present bail application lacks merit and is liable to be



dismissed.

4. In the aforesaid backdrop, I have heard learned counsels for the parties.

5. Having perused the case file and on giving my thought to the rival contentions, it does not appear to be a case of bail.

6. At the very outset, my attention has been drawn to the nominal roll dated 23.05.2025 received from the Jail Superintendent which is a part of the Court record. The overall Jail conduct as per the said nominal roll is revealed as under:

“Unsatisfactory. In view of below mentioned punishments:

(a) In view of punishment recorded for recovery of prohibited article in jail. His Family interview was stopped for a period of 07 (seven) days from 14.11.2022 to 20.11.2022.

(b) In view of punishment recorded for disorderly behaviour in jail. His family interview was stopped period of 07 (seven) days from 26.02.2023 to 04.03.2023.

(c) In view of punishment recorded for recovery of prohibited article in Jail. His family interview was stopped for a period of 07 (seven) days from 09.10.2023 to 15.10.2023.

(d) In view of punishment recorded for disorderly behaviour in Jail. His family interview was stopped for a period of 07 (seven) days from 23.10.2023 to 29.10.2023.”

7. From the aforesaid it does not appear that the applicant is remorseful, in any manner, or is having satisfactory conduct, so as to be accorded the concession of bail.

8. Otherwise also, he does not seem to be carrying the disposition to be let out in the society at large. As in view of the aforesaid, possibility of his indulging in the repeat offence, which is essentially the part of the twin test



under Section 37 of NDPS Act, cannot be ruled out at this stage. No grounds are thus made out to grant any indulgence.

9. Further, the applicant and his co-accused are both foreign nationals without any permanent roots in India. This creates a serious and imminent risk of their absconding and fleeing the jurisdiction if released on bail. There is also every likelihood of tampering with evidence and influencing witnesses, particularly when key testimonies are yet to be recorded.

10. Furthermore, at this stage, statutory presumptions under Sections 35 and 54 of the NDPS Act, also seem to be another impediment against the applicant. In view of the seriousness of the offence, the nature of allegations, and the statutory embargo under Section 37, the present bail application is wholly devoid of merit and deserves rejection, at this stage.

11. The bail application stands dismissed with liberty to file at an appropriate stage subsequently depending upon progress of trial.

12. Given the long incarceration of the applicant, learned trial court is expected not to grant unnecessary adjournments at the instance of the prosecution and proceed expeditiously in the matter.

ARUN MONGA, J

AUGUST 19, 2025/nk/rs