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

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Date of Decision: 21.08.2025

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BAIL APPLN. 2387/2025

UGOCHUKWU PASCHAL

.....Petitioner

Through: Mr. Anup Kr. Das and Mr. Uday Chauhan, Advocates.

versus

STATE (NCT OF DELHI)

.....Respondent

Through: Mr. Amit Ahlawat, APP for State
with SI Hanspreet Singh, Anti-
Narcotics Cell.

CORAM: JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)

1. The accused/applicant seeks regular bail in case FIR No. 223/2023 of PS Burari for offence under Section 21/25/29 of NDPS Act. Learned APP has submitted the status report which is accepted across the board, to be scanned and made part of the record.

2. Broadly speaking, prosecution case is as follows. On 25.02.2023, a secret information was received by HC Parveen Saini, AATS/North that two African Nationals, residents of Burari area and indulged in illegal drug trafficking would come near Rose Petal School to supply a huge quantity of

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heroin to their contact between 02:15pm to 02:45pm. After necessary procedural formalities, a raiding team was constituted which took position at the given spot. At about 02:20 pm, two African Nationals came on a scooty and stopped about 10-15 meters before the spot. Those two persons on scooty were identified by the secret informer. When those two persons were about to leave, the raiding team apprehended them. The present accused/applicant was sitting pillion on that scooty. After following the procedural safeguards, bodily search of both those persons was carried out but nothing incriminating was recovered. Thereafter, the scooty was searched and from its *dickey*, one white polythene containing mud colour powder was recovered, which powder appeared to be heroin. On being weighed, the powder was found to be 552 grams.

3. On behalf of the accused/applicant, it is submitted that he is innocent and has been falsely implicated in this case. Learned counsel for the accused/applicant submits that even according to the prosecution story, it cannot be said that the accused/applicant was in possession of the allegedly recovered contraband, as admittedly, he is neither the owner of the scooty nor was driving the same nor any other evidence has been collected to show that he was aware about the presence of contraband inside the *dickey*.

4. Learned APP submits that there is evidence of connectivity between the present accused/applicant and the co-accused who was driving the scooty, therefore, the present accused/applicant is liable under Section 29 NDPS Act. However, learned APP on instructions of the IO admits that



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there is no evidence of any money transaction between the present accused/applicant and driver of the scooty.

5. On being called upon to show the evidence collected as regards the alleged telephonic connectivity between the present accused/applicant and the co-accused who was driving the scooty, the IO states that the sim cards of mobile phones with which the accused/applicant and the co-accused were connected to each other were not issued in their names. The IO submits that those sim cards were purchased on the basis of forged documents. But IO further admits that he did not record any statement of the person who sold the said sim cards. In other words, as regards the alleged connectivity between the present accused/applicant and the co-accused who was driving the scooty also, there is no evidence.

6. Even as regards ownership of the scooty, the IO submits that the same is not owned by either of the accused persons. IO submits that he has placed the recorded owner of the scooty in column no. 12 of the chargesheet.

7. No other material has been cited before this court to show that the present accused/applicant was aware that there is any contraband stored in the *dickey* of the scooty on which he was sitting pillion. There is also presently no material to show any conspiracy between the present accused/applicant and the co-accused who was driving the scooty.



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8. I must add a cautious rider that the above discussion has been done only for ascertaining as to whether the rigors of Section 37 NDPS Act be invoked against the accused/applicant. The above discussion is for the limited purpose of deciding the bail application and shall not be kept in mind by the trial court at the stage of conclusion of the trial.

9. Considering the above circumstances, the bail application is allowed and accused/applicant is directed to be released on bail subject to his furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the Trial Court. In case the accused/applicant does not hold valid passport and/or visa, he shall be handed over to FRRO after acceptance of bail bonds.

10. A copy of this order be immediately transmitted to the concerned Jail Superintendent for informing the accused/applicant.

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**GIRISH KATHPALIA
(JUDGE)**

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