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

+ **BAIL APPLN. 2851/2025**

KOUKU RIFIM COLLINS

.....Petitioner

Through: Ms. Mamta Wadhwa, Advocate

versus

STATE THROUGH SHO PS MOHAN GARDENRespondent

Through: Mr. Manoj Pant, APP for the State

CORAM:

HON'BLE DR. JUSTICE SWARANA KANTA SHARMA

ORDER

13.10.2025

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1. By way of this application, the applicant seeks grant of regular bail in case arising out of FIR bearing no. 0373/2023, registered at Police Station Mohan Garden, Delhi, for the commission of offence punishable under Sections 8/22/25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereafter '*NDPS Act*') and Section 14A of the Foreigners Act, 1946 (hereafter '*Foreigners Act*').

2. Brief facts of the case, as per the status report filed by the State, are that on 13.09.2023, a police team comprising HC Lokender Kumar and other officials from the Anti-Narcotics Cell, Dwarka, had departed from their office at around 7:00 PM to verify the presence of illegal foreign nationals in the Mohan Garden area. At about 8:30 PM, while the team was present near Kala Pather Mandir, Gali No. 3, Jain Road, Mohan Garden, they had noticed an African national approaching on a scooty. Upon seeing



the police, the said person had attempted to flee and, in the process, had thrown a white polythene packet on the street. The police had apprehended him immediately, and had also recovered the packet thrown by him. Upon checking, it was found containing a white crystalline substance which, on field testing, tested positive for Amphetamine. The total weight of the recovered substance was found to be 57 grams. The packet was duly sealed and seized as case property. The accused was identified as Kouku Rifim Collins, aged 24 years, a resident of Anambra, Nigeria. He was informed of his legal rights under Section 50 of the NDPS Act and he had declined to be searched before a Gazetted Officer or Magistrate. His personal search yielded no further contraband. The scooter bearing registration number DL-3SDT-3028 (Honda Cliq, Blue colour), allegedly used for the supply of drugs, was also seized. On the basis of the recovery, a case under Sections 8/22/25 of the NDPS Act was registered vide FIR No. 373/2023, dated 13.09.2023, at PS Mohan Garden. The investigation was thereafter entrusted to ASI Vinod Kumar, who prepared the site plan, arrested the accused in accordance with law, and recorded his disclosure statement, in which he allegedly named one Prince as the supplier of the recovered Amphetamine. After completion of investigation, chargesheet was filed before the concerned Court.

3. The learned counsel appearing for the applicant contends that the applicant has been falsely implicated in the present case and has remained in judicial custody for about two years. It is argued that no independent witness was joined during the alleged recovery proceedings, which casts serious doubt on the veracity of the prosecution's case. It is further submitted that neither videography nor photography of the seizure proceedings was



conducted by the Investigating Officer. The learned counsel also submits that there have been material procedural lapses and violations of the mandatory provisions of the Act, including irregularities in the preparation and handing over of the seizure memo. It is further contended that there are contradictions in the statements of the prosecution witnesses. On these grounds, it is prayed that the applicant be released on regular bail.

4. The learned APP for the State, on the other hand, opposes the bail application and submits that the absence of public witnesses does not, by itself, vitiate the proceedings, particularly when the recovery was made during a routine verification drive concerning illegal foreign nationals in the area. It is contended that the recovery in the present case was a chance recovery of a psychotropic substance, namely Amphetamine, and that the accused was found to be in possession of a commercial quantity of the said substance, thereby attracting the rigour of Section 37 of the NDPS Act. The learned APP further submits that the applicant's visa had expired in 2019 and that he has been illegally residing in India since then, without any permanent place of stay, which increases the likelihood of his absconding if released on bail. Accordingly, it is prayed that the present bail application be dismissed.

5. This Court has **heard** arguments advanced on behalf of the applicant/accused as well as the State, and has perused the material on record.

6. From the material placed on record, it emerges that the present case arises out of a recovery of 57 grams of psychotropic substance from the applicant, a Nigerian national, during a routine verification drive by the Anti-Narcotics Cell, Dwarka, on 13.09.2023. The recovery was made when



the applicant, upon noticing the police party, had allegedly attempted to flee and had thrown a white polythene packet which was later found to contain the contraband substance. The said substance had tested positive for Amphetamine during field testing. As per record, the FSL report has confirmed the presence of 'Methamphetamine drug' in the sample sent for testing. The total quantity recovered falls within the category of commercial quantity.

7. This Court is of the opinion that as rightly observed by the learned Trial Court, the mere fact that there were no independent witnesses to the recovery does not make the recovery doubtful in each case, and especially at the stage of consideration of bail, this Court cannot give a finding that the recovery was doubtful due to any procedural lapse or non-examination of the independent witnesses, when the trial is still pending and these contentions are yet to be considered and given a finding on by the learned Trial Court.

8. As noted above already, the FSL report supports the prosecution case that the psychotropic substance recovered from the accused was of commercial quantity; thus, bar under Section 37 of NDPS Act is attracted. In order to grant bail in such cases, the twin conditions under Section 37 must be satisfied. This includes a satisfaction that there should be reasonable grounds for believing that the applicant is not guilty of the offence and that he is not likely to commit any offence while on bail. In the case of **Union of India v. Prateek Shukla**: (2021) 5 SCC 430, **State v. Lokesh Chadha**: (2021) 5 SCC 724, and **Narcotics Control Bureau v. Mohit Aggarwal**: 2022 SCC Online SC 891, it was held by the Hon'ble Supreme Court that the provisions of Section 37 of NDPS Act have to be applied strictly at the time



of deciding bail application of an accused.

9. In the present case, for the reasons recorded above, this Court is unable to form a *prima facie* opinion that the applicant has not committed the alleged offence so as to satisfy the test under Section 37 of NDPS Act. This Court further takes note of the fact that investigation revealed that the applicant had been illegally residing in India after expiry of his visa in 2019.

10. Considering the overall facts and circumstances of the case and the fact that the evidence of material witnesses is being recorded before the Trial Court, this Court finds no ground for grant of regular bail to the applicant/accused.

11. Accordingly, the present bail application is dismissed.

12. Nothing expressed hereinabove shall tantamount to an expression of opinion on the merits of the case.

13. The order be uploaded on the website forthwith.

DR. SWARANA KANTA SHARMA, J

OCTOBER 13, 2025/ns/zp