



2025:DHC:4000



\$~11

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

% **Date of decision: 15.05.2025**

+ **BAIL APPLN. 4393/2024**

OKEKE GLORIA ADAOBIPetitioner

Through: **Mr. Meghan, Adv.**

versus

DRIRespondent

Through: **Mr. Satish Aggarwal, Standing
Counsel with Mr. Gagan
Vaswani, Advs. for Customs.**

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

SHALINDER KAUR, J (ORAL)

CRL.M.A. 35920/2024 (Exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

BAIL APPLN. 4393/2024, CRL.M.A. 35921/2024

3. The present bail application has been filed by the petitioner under Section 528 of the Bhartiya Nagarik Suraksha Sanhita, 2023, seeking the grant of Regular Bail in File No. DRI/HQ-GI/338/XVIII/ENG-17/INT-NIL2023 for offences under Sections 21, 23 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act") registered at Police Station Directorate of Revenue Intelligence ("DRI").



2025:DHC:4000



4. The case of the DRI is that information was received in the office of DRI, Headquarter that one Mr. Som Dutt Sharma (co-accused), holding an Indian Passport bearing no. T0949210 would be arriving at Terminal-3, Indira Gandhi International Airport, New Delhi (IGI Airport) by Ethiopian Airlines, Flight No. ET920 dated 18.09.2023 from Accra, Ghana to Addis Ababa via Flight No. ET686 would be arriving at New Delhi at 08.10 hours on 19.09.2023 and that he has concealed certain narcotics in his baggage or on his person.

5. Accordingly, a team of DRI officers reached the IGI Airport in the morning of 19.09.2023 and the co-accused Som Dutt Sharma was intercepted by DRI officers in the presence of an independent witness. He was then escorted to the Customs room situated at IGI Airport. Notice under Section 50 of the NDPS Act was given and he was informed about the requirement of his personal search and of the baggage carried by him. He was also apprised about his legal rights of his personal search and the search of the hand carry bag, which could be conducted in presence of a Magistrate or Gazetted Officer. Som Dutt Sharma gave his written consent for his personal search and search of his bag pack by DRI Officers on the notice itself.

6. Upon the search, he was found in possession of 1650 grams of white color powdery substance, recovered from a transparent plastic polythene taken out from his trolley bag. The said substance was tested with the help of Field Drug Detection Kit brought by the DRI Officers, in the presence of witnesses and the Som Dutt Sharma. The powder gave positive result for presence of *cocaine* in the substance.



2025:DHC:4000



The proceedings relating to interception of Som Dutt Sharma and seizure of the narcotics was recorded in a *panchnama* dated 19.09.2023.

7. Thereafter, co-accused Som Dutt Sharma was asked to seek further directions regarding delivery of the bag from his handler. During the communication held with one Mr. Usman and the petitioner, he shared a train ticket in the name of Som Dutt Sharma from Ahemdabad to Delhi dated 19.09.2023 and also shared a visiting card of a Hotel located in Delhi and instructed Som Dutt Sharma to stay in the said Hotel for delivery of gift luggage.

8. On 20.09.2023, Som Dutt Sharma was asked by the DRI to seek further directions regarding delivery of the bag. During the communication with Usman, Som Dutt Sharma told him that he has checked in room no. 407 in the Hotel. Thereupon, Mr. Usman informed Som Dutt Sharma that one lady, namely, Ms. Jane would come to collect the gift luggage and would give him Rs. 83,000/- equivalent to USD 1000. On the request of Mr. Usman, Som Dutt Sharma shared his photo with him so that the said lady could identify him at the Hotel. Mr. Usman further informed Som Dutt Sharma that the lady would be at the reception.

9. Pursuant to this communication, Som Dutt Sharma was made to check in to room no. 407 at Hotel Azora by Cherish. The DRI team had stationed itself at the said Hotel. When petitioner arrived at the said Hotel, she was intercepted by DRI Officers and was found in possession of an envelope containing Rs.83,000, which was seized.



2025:DHC:4000



Thereafter, the statements of co-accused and the petitioner were recorded.

10. The petitioner, in her statement recorded on 20.09.2023, disclosed that she had come to hand over the small bag to the co-accused, Som Dutt Sharma and to collect a larger bag in return, as instructed. She further stated that she was acting under the instructions of one Omekaniya, who had also sent her the photograph of co-accused and directed her to identify herself as “Mrs. Jane” and proceed to room No. 407 of the hotel.

11. Pursuant to the recording of her statement, the petitioner was formally arrested on 20.09.2023, after being informed about the grounds of arrest. Subsequently, post the completion of the investigation, the Complaint was filed in the Court and the Charges have been framed against the petitioner.

12. The bail application moved on behalf of the petitioner was dismissed by the learned Trial Court *vide* Order dated 21.10.2024, leading to the filing of the present bail application.

13. The learned counsel for the petitioner submits that the petitioner is innocent and has falsely been implicated in the present case. There is no substantive evidence to link her with the alleged offence and that she has no criminal antecedents, as she has never been involved in any unlawful activity.

14. The learned counsel for the petitioner laid much stress on the submission that the petitioner had no knowledge of the contents of the bag in question that she had handed over to co-accused or the bag that



2025:DHC:4000



she had received from the co-accused. He contends that she was merely acting at the behest of one Omekaniya, which is corroborated by the record of WhatsApp communications placed on record by the prosecution.

15. He further submits that, given the stage of the trial, which is unlikely to conclude in the near future, continued incarceration of the petitioner, since her arrest on 20.09.2023, would serve no tangible purpose, thus, the petitioner is eligible to be enlarged on bail.

16. The learned APP, while strongly opposing the prayer for bail, submits that the petitioner was a willing participant in the criminal conspiracy and actively facilitated the smuggling of contraband. He submits that the petitioner adopted a false identity to procure the contraband from the co-accused, in exchange for cash, which was recovered at her instance at the time of interception.

17. The learned APP further submits that the petitioner, being a foreign national, poses a flight risk. Moreover, the fact that the recovered quantity falls within the ambit of *commercial quantity* as defined under the NDPS Act, thereby attracting the rigors of Section 37 thereof. Moreover, he submits the bail application of the co-accused Som Dutt Sharma has been dismissed by the Co-ordinate Bench of this Court *vide* Order dated 05.03.2025. Thus, the petitioner, who played an active role along with co-accused Som Dutt Sharma in being possession of narcotics, fails to make any grounds for grant of bail.



2025:DHC:4000



18. In rebuttal, the learned counsel for the petitioner reiterates that the adoption of a false identity was not on petitioner's own volition but was done solely under the instructions of the Omekaniya, and that the petitioner had no independent role in the smuggling operation.

19. Having heard the learned counsel for the petitioner, the learned APP for the state and perused the record, this Court notes that the petitioner had used a fake name to collect the contraband from the co-accused Som Dutt Sharma while the two were together in Hotel Azora by Cherish. *Prima facie*, it is unbelievable that the petitioner had no knowledge that the bag she was collecting from co-accused Som Dutt Sharma was not containing contraband. Had that been the position, there was no requirement for petitioner to use a fake name as Ms. Jane, just to receive the said bag. Moreso, she was acting upon the directions of one Omekaniya. Relevantly, the petitioner has not disputed that she had used a fake name; however, her main argument is that she was unaware about the contents of the bag or that it contained narcotics.

20. It is needless to state that the said submission is a part of the defense of the petitioner, which would be proved by her at trial. The petitioner has failed to explain her conduct of using a false name while meeting with the co-accused Som Dutt Sharma at Hotel Azora by Cherish for the purpose of exchanging the bags. Such a conduct on the part of the petitioner is sufficient to *prima facie* show that the petitioner knew that she was on an illegal assignment, which she voluntarily executed. Thus, there being a strong possibility that she



2025:DHC:4000



was aware about the contents of the bags that she undertook to exchange with co-accused, cannot be ruled out.

21. It is further unbelievable that she would not have enquired about the contents of bags from Omekaniya, on whose instructions she used a fake name to collect narcotics from the co-accused. The explanation put forth by the petitioner in her defense to claim innocence and not being in knowledge is disputable and is to be proved in the learned Trial Court at the relevant stage.

22. In the present case, at the time of interception, the petitioner was found in possession of 1650 gms. of *cocaine*, which is a *commercial quantity*, which she had received from co-accused Som Dutt Sharma, in exchange for Rs. 83,000/-, thereby, mandating the satisfaction of the stringent twin condition under Section 37 of the NDPS Act, which are necessarily required to be satisfied.

23. As per the allegations of the prosecution, this is an international drug syndicate, being run for import of *cocaine* and the petitioner is also a part and one of the links of the said syndicate.

24. In view of the foregoing discussions, there are serious charges against the petitioner being in possession of *commercial quantity* of *cocaine*, which was smuggled by co-accused Som Dutt Sharma from Accra, Ghana and was to be handed over to a third person after it was collected by the petitioner from co-accused Som Dutt Sharma.

25. Importantly, the bail application of the co-accused Som Dutt Sharma has been dismissed by a Co-ordinate Bench of this Court *vide* the Order dated 05.03.2025.



2025:DHC:4000



26. Consequently, there is no ground for grant of bail to the petitioner, thus, the bail application is dismissed.

SHALINDER KAUR, J

MAY 15, 2025/ab/kp

[Click here to check corrigendum, if any](#)