



2025:DHC:7833



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

*Reserved on: 29.08.2025
Date of Decision: 09.09.2025*

+ **BAIL APPLN. 4725/2024**

EMMA ODOGWU EMEAFU @ JOSHUA @EMMANUEL

CHIKE EMEAFUPetitioner

Through: Mr. Vikas Gautam and
Mr. Rajesh Kumar, Advs.

versus

NARCOTIC CONTROL BUREAURespondent

Through: Mr. Arun Khatri, SSC with Ms.
Tracy Sebastian and Ms. Anisha Maan,
Advs.

**CORAM:
HON'BLE MR. JUSTICE AJAY DIGPAUL**

J U D G M E N T

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1. Through the present petition under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (formerly Section 439 of the Code of Criminal Procedure, 1973), the petitioner seeks regular bail in NCB Case No. VIII/55/DZU/2023. This case relates to offences under Sections 9A, 22, 23, 25(A) and 29 of NDPS Act¹, which is currently pending before the Special Judge, New Delhi.

Factual Background

¹ hereinafter "Narcotic Drugs And Psychotropic Substances Act, 1985"



2025:DHC:7833



2. The case of the prosecution, in brief is that on 05.12.2023, acting on specific information, a parcel lying with DHL Express Pvt. Ltd. Rama Road, New Delhi, destined to Australia, was intercepted and upon examination found to contain 272 grams of Amphetamine(Methamphetamine Hydrochloride as per CRCL Report) concealed in bangle display stands. The said parcel had been booked through ASU Enterprises in the name of one Dilip Singh Chouhan on the basis of forged identity documents, and further enquiry traced its correspondence to the email ID dilipschouhan1090@gmail.com.

3. On obtaining information from Google, the IP address of the said email was found allotted to Chuks Joel Dugbere @ George, a Nigerian national residing at Dayalbagh Colony, Faridabad. A search of his premises on 21.12.2023 resulted in recovery of 16.718 kilograms of Methamphetamine (Pseudoephedrine as per CRCL Report), leading to his arrest.

4. Pursuant to his disclosure, the premises of the petitioner herein, another Nigerian national residing at New Mahavir Nagar, New Delhi, was searched on 22.12.2023, resulting in recovery of 520 grams of Amphetamine (Pseudoephedrine Hydrochloride as per CRCL Report) and Rs. 3,30,000/- in cash and he too was placed under arrest. His arrest was duly intimated to his family and the FRRO/MEA as per procedure.

5. On the following day, *Amir Kumar*, a resident of Burari, Delhi, was apprehended, and in his statement under Section 67 of the NDPS Act he admitted that the intercepted parcel had been booked by him at the instance of Chuks Joel Dugbere @ George, that he had earlier booked several such parcels in fictitious names using forged documents, and that he was fully aware they contained narcotic



2025:DHC:7833



substances. Analysis of his call records established regular communication between him, Chuks Joel Dugbere @ George, and the petitioner. The investigation was further supported by statements of the petitioner's landlord and DHL officials, seizure of rent agreements, recovery of mobile phones and other electronic data, all of which, according to the prosecution, connect the accused with the offence.

6. Thereafter, the petitioner filed his bail application before the learned ASJ, Special Judge, New Delhi, Patiala House Courts which was dismissed *vide* order dated 12.12.2024. The Court held that recovery of 520 of pseudoephedrine (terminology used by the learned Trial Court for substance recovered) and Rs. 3,30,000/ from the petitioner's residence, coupled with photographs and chats found on his phone linking him with co-accused Chuks Joel Dugbere @ George, *prima facie* showed his involvement in the offence. In view of the statutory bar under Section 37 NDPS Act, the bail was declined.

Submissions of the Petitioner

7. Learned counsel for the petitioner contends that the recovery of 520 grams of amphetamine from the petitioner's residence does not attract the bar of Section 37 of the NDPS Act, as the same is only a controlled substance.

8. It is further argued that the prosecution's case is inherently inconsistent, inasmuch as the chargesheet reflects that the name of the petitioner was disclosed by co-accused Chuks Joel Dugbere @ George only on 22.12.2023, whereas the raid at the petitioner's residence is alleged to have taken place a day earlier, on 21.12.2023. This, according to learned counsel, casts grave doubt on the manner in which the petitioner has been implicated.



2025:DHC:7833



9. It is urged that no incriminating material, such as WhatsApp chats, call recordings, or exchange of airway bills, has been placed on record to connect the petitioner with the seized parcel containing 272 grams of amphetamine. Save for some images, which are neither clear nor substantiated by any FSL report, there is no material to suggest the petitioner's knowledge or involvement in the said transaction.

Submissions of the Respondent-NCB

10. *Per contra*, Mr. Arun Khatri, learned counsel for the respondent strongly opposes the present petition and relies upon the detailed complaint and annexures filed before the learned Special Judge, New Delhi, Patiala Courts.

11. It is submitted that the raid at the premises of the petitioner was conducted pursuant to information received from co-accused Chuks Joel Dugbere @ George during preliminary inquiry, and the search authorization was duly issued on 21.12.2023 itself. It is explained that the formal recording of the disclosure statement under Section 67 was carried out on the following day i.e., 22.12.2023, after completion of the raid, and therefore no inconsistency arises.

12. It is further submitted that the search proceedings were carried out strictly in accordance with law, resulting in the recovery of 520 grams of suspected amphetamine as well as Indian currency amounting to Rs. 3,30,000/-. The seizure proceedings were duly documented, sealed, and deposited in the malkhana in compliance with statutory requirements.

13. Mr. Arun Khatri contends that the apprehension of the petitioner absconding or interfering with the evidence cannot be ruled out at this



2025:DHC:7833



stage. In these circumstances, and considering the seriousness of the allegations, no case for grant of bail is made out.

Analysis

14. The Court has given due consideration to the submissions advanced by the parties. The contraband in question, i.e. 272 grams of amphetamine, was recovered from a courier parcel addressed to co-accused Chuks Joel Dugbere @ George. The involvement of the petitioner surfaced on the basis of the disclosure statement of the said co-accused, alleging that the parcel had been supplied by the petitioner. Pursuant to the disclosure, a recovery of 520 grams of amphetamine was affected from the possession of the petitioner. In both instances, the recovered quantity exceeds the threshold of 50 grams prescribed for amphetamine and, therefore, falls within the category of commercial quantity under the NDPS Act, thereby attracting the statutory embargo under Section 37 of the Act. Accordingly, for the grant of bail, the petitioner must satisfy the twin requirements under Section 37(1)(b) of the Act, i.e., (i) the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of the alleged offence, and (ii) that he is not likely to commit any offence while on bail.

15. The legal position with respect to the rigour of Section 37 of the NDPS act is well settled. The Supreme Court in ***State of MP v. Kajad***² has categorically held that

“5. ...A perusal of Section 37 of the Act leaves no doubt in the mind of the court that a person accused of an offence, punishable for a term of imprisonment of five years or more, shall generally be

²(2001) 7 SCC 673



2025:DHC:7833



not released on bail. Negation of bail is the rule and its grant an exception under sub-clause(ii) of clause(b) of Section 37(1). For granting the bail the court must, on the basis of the record produced before it, be satisfied that there are reasonable grounds for believing that the accused is not guilty of the offences with which he is charged and further that he is not likely to commit any offence while on bail. It has further to be noticed that the conditions for granting the bail, specified in clause(b) of sub-section (1) of Section 37 are in addition to the limitations provided under the Code of Criminal Procedure or any other law for the time being in force regulating the grant of bail. Liberal approach in the matter of bail under the Act is uncalled for.”

16. Adverting to the first requirement, the seizure effected from the petitioner’s premise is not insignificant in quantity. Even if it is assumed, as argued by the petitioner, to be pseudoephedrine, it nonetheless falls within the category of a controlled substance under the NDPS regime, possession of which without due authorization constitutes an offence. The recovery of Rs. 3,30,000/- in cash from his premise further lends weight to the prosecution’s assertion of the petitioner’s active involvement in illicit activities.

17. The contention regarding the discrepancy in the dates of the raid and the recording of disclosure statement does not, in the opinion of this Court, demolish the substratum of the case. The prosecution has explained that the raid on 21.12.2023 flowed directly from the disclosure made by the co-accused Chuks Joel Dugbere @ George, and the formal recording followed the next day. These are matters of evidentiary appreciation, to be tested at trial. At this stage, what is relevant is whether there exists *prima facie* material connecting the petitioner to the alleged offences. In view of the recoveries, coupled with the co-accused’s disclosure leading to recovery and other material on record, this Court is unable to form an opinion that there are reasonable grounds to believe the petitioner is not guilty.



2025:DHC:7833



18. Turning to the second requirement under Section 37(1)(b) NDPS Act, it is evident that pursuant to the co-accused's disclosure, further contraband and cash worth Rs. 3,30,000/- was recovered from the petitioner's premise. This, in the view of this Court, indicates his continuing nexus with narcotic trafficking and creates a legitimate apprehension that, if enlarged on bail, the petitioner may re-engage in similar activities.

19. Thus, neither of the two conditions prescribed under Section 37 of the NDPS Act are fulfilled. As per the material on record, *prima facie* case has been made out against the petitioner, the veracity of which is to be tested at trial.

20. This Court is mindful of the position that at the stage of granting of bail, the court cannot undertake a detailed evaluation of the evidence or the credibility of witnesses. The Hon'ble Supreme Court in the case of **Satish Jaggi v. State of Chhattisgarh & Ors.**³ has held as under:

“At the stage of granting of bail, the Court can only go into the question of prima facie case established for granting bail. It cannot go into the question of credibility and reliability of the witnesses put up by the prosecution. The question of credibility and reliability of prosecution witnesses can only be tested during the trial.”

21. Considering all the facts and circumstances of the case, the allegations are of grave nature, involving criminal conspiracy and abetment with common intention of engaging in the illegal trafficking of narcotic substances across international borders. This Court is not inclined to exercise its discretion in granting bail to the petitioner.

³(2007) 11 SCC 195



2025:DHC:7833



22. In view of the foregoing discussion, this Court finds no ground to grant bail to the petitioner. Accordingly, the present bail petition stands dismissed, along with pending application(s), if any.

23. It is clarified that any observations made in the present order are for the purpose of deciding the present bail application and shall not influence the outcome of the trial.

AJAY DIGPAUL, J.

SEPTEMBER 9, 2025
gs/dd