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Crl.O.P.No.8108 of 2026



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2026

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THE HONOURABLE Mr. JUSTICE C.KUMARAPPAN

Crl.O.P.No.8108 of 2026

Eke Onwuka

... Petitioner

Vs.

Union of India,
Rep. by the Superintendent of Customs,
Chennai.
(R.R.No.70/2023)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, Act, 2023, praying to set aside the order passed in Crl.M.P.No.5514 of 2025 in Crl.M.P.No.9329 of 2024 on the file of the Principal Special Court under EC & NDPS Act, Chennai – 104, dated 29.12.2025.

For Petitioner : M/s.P.Keerthana

For Respondent : Mr.N.P.Kumar,
Special Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the order dated 29.12.2025 in Crl.M.P.No.5514 of 2025 in Crl.M.P.No.9329 of 2024 on the file of the Principal Special Court under EC & NDPS Act, Chennai – 104.



2. Heard the learned counsel on either side and perused the materials available on record.

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3. The learned counsel for the petitioner would submit that the learned Principal Special Court under the EC and NDPS Act, Chennai, had granted bail to the petitioner on 11.09.2024, with a direction to produce the petitioner's original passport before the said Court. However, according to the learned counsel, at the time of remand, the petitioner's passport had already been secured by the respondent authority.

4. The respondent has filed a counter affidavit stating that the passport was handed over to the High Commission of Nigeria. However, the respondent is not in a position to confirm whether the passport is still in the custody of the High Commission of Nigeria or whether it has been returned to the petitioner. In this regard, this Court directed the respondent to ascertain the factual position. Pursuant thereto, the respondent has addressed a communication dated 06.06.2026 to the High Commission of Nigeria requesting the return of the passport.

5. At this juncture, it is relevant to refer to the earlier order passed by this Court dated 16.04.2026, which reads as follows:-



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“Learned counsel for the petitioner submitted that according to the observation made by the Principal Special Court under EC & NDPS Act, Chennai, the passport of the petitioner has already been surrendered before the Nigerian High Commission. In this regard, the learned Special Public Prosecutor is directed to produce appropriate document evidencing such factual position.

2. Post the case on 22.04.2026.”

6. Thereafter, this Court, by order dated 22.04.2026, observed as follows:-

“The learned Special Public Prosecutor appearing for the respondent submitted a letter dated 31.05.2025, addressed by the Superintendent of Customs, Chennai, to the High Commission of Nigeria in New Delhi, wherein it is stated that the passport of the petitioner had already been forwarded to the High Commission of Nigeria in New Delhi for further necessary action.

2. At this juncture, the learned counsel for the petitioner would submit that she has already sent a representation to the Superintendent of Customs, Chennai, seeking return of the passport for the purpose of producing the same before this Court. However, she was not in a position to produce a copy of such representation.

3. Post the matter on 27.04.2026.”

7. Pursuant to the aforesaid orders, the respondent authority addressed communications to the High Commission of Nigeria. However, no reply has been received confirming whether the passport is in its custody. Further, the fact remains that, at the time of the petitioner’s arrest, the passport was secured



by the respondent authority.

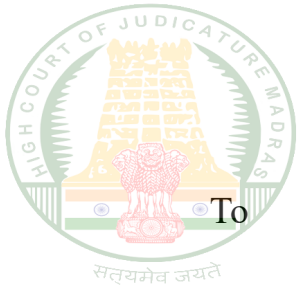
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8. In such circumstances, the impugned order dated 29.12.2025 is set aside and the condition imposed in the bail order dated 11.09.2024 in Crl.M.P.No.9329 of 2024 in the result portion as far as the condition in respect of production of the original passport is relaxed. However, the respondent authority is directed to take necessary steps to secure the petitioner's passport from the High Commission of Nigeria and produce the same before the jurisdictional Court. Further, in view of the judgment of the Hon'ble Supreme Court of India in *Frank Vitus v. Narcotics Control Bureau and Others*, reported in **2025 INSC 30**, and considering the fact that the petitioner is a foreigner within the meaning of the Foreigners Act, 1946, the respondent is directed to take necessary action in accordance with the ratio laid down in *Frank Vitus's case* (cited supra).

9. With the above directions, this Criminal Original Petition is ordered.

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- 1.The Principal Special Court under EC & NDPS Act, Chennai – 104.
- 2.The Superintendent of Customs,
Union of India,
Chennai.
- 3.The Public Prosecutor, High Court of Madras.



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C.KUMARAPPAN.J.

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