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

+ **BAIL APPLN. 4190/2025**

LOISE WANJIRU KARUMBI

..... Applicant

Through: Mr. Anoop Kumar Gupta, Advocate

Versus

CUSTOMS

.....Respondent

Through: Mr. Aditya Singla, SSC with Mr.
Sureya Lamba, Advocate

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

05.05.2026

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1. By virtue of the present application under *Section 483* read with *Section 528* of the Bharatiya Nagarik Suraksha Sanhita, 2023, the applicant seeks grant of regular bail in CrI. Complaint No.VIII(AP)10/P&I/4228-B/Arrival/2023 registered at PS: Customs under *Section 21(c)/23(c)* of the Narcotic Drugs and Psychotropic Substances Act, 1985 (**NDPS Act**).

2. *Succinctly put*, as per prosecution, the applicant herein was intercepted by the Customs Authorities at the Indira Gandhi International Airport, New Delhi on 19.06.2023 where she had arrived aboard Flight No.ET-686 from Addis Ababa, Ethiopia. After joining of the proceedings by two independent witnesses and service of Notice(s) under *Section 102* of the Customs Act, 1962 (**Customs Act**) and *Section 50 NDPS* upon her, to which she consented in writing, *three bottles* of 'Johnnie Walker Black Label Whisky' containing *2537g of cocaine* in powdered form were



recovered from the Duty-Free bag she was carrying. Her statement was recorded under *Section 67 NDPS Act* wherein she admitted that she was carrying the same for Ms. Maida. Thereafter, she was accordingly arrested.

3. Pursuant to last order, learned counsel for applicant has reiterated his submissions *qua Section(s) 42 and 50 NDPS Act*, as also drawn attention of this Court to the Notice(s) under *Section 50 NDPS Act* and *Section 102 Customs Act* and the *Panchnama* dated 19.06.2023 drawn at IGI Airport in support thereof to submit that a ‘... ..*lady customs officer...*’ has also been mentioned therein which is not in accordance with NDPS Act and/ or Customs Act. He has then made a passing reference of one case entitled *State vs. Surat Singh*, *albeit*, without giving its citation or handing over a copy thereof. Barring these, he submits that the chain of custody of the contraband was broken, the time of arrest is unclear, as also there are discrepancies in the cross-examination of *PWI* before the learned Trial Court on 02.04.2024.

4. *Per contra*, learned SSC for Customs submits that no case for grant of bail to the applicant is made out, particularly, since she is a foreign national of Kenyan origin with no roots in India, who was caught smuggling a huge quantity of contraband much beyond the commercial quantity into the country. Regarding the other grounds urged, he submits that they are all matters of trial, and relies upon judgment dated 16.09.2025 of a Co-ordinate Bench of this Court in BAIL APPLN. 742/2025 entitled *Cissy Navyuga vs. Customs & Anr.* wherein it has been held as under:-

“11. The learned counsel for the applicant has also



*attempted to point out that there was non-compliance of certain provisions of NDPS Act, such as those relating to sampling of contraband (Section 52A), etc. However, in this Court's view, the said arguments are a matter of trial and cannot be adjudicated upon while considering the bail application. Further, though reliance has been placed on decision of the Hon'ble Supreme Court in **Bharat Aambale v. State of Chhattisgarh**: 2025 INSC 78 to emphasize upon the significance of procedural compliances, particularly, Section 52A, in seizing and preserving the contraband substances, vis-a-vis sustaining a conviction under the relevant provisions of the Act, the same is however of no help to the applicant at this stage as the observations in the said decision are essentially relevant at the stage of trial and conviction, and not while considering bail application. In this regard, it would be apposite to take note of the Hon'ble Supreme Court's observation in **Narcotics Control Bureau v. Kashif**: 2024 SCC OnLine SC 3848 wherein it was held that any procedural irregularity or illegality found to have been committed in conducting the search or seizure during the course of investigation or thereafter, be it in reference to Section 52A or otherwise, does not entitle the accused to be released on bail.*

12. This Court also notes that the trial in the case is at a crucial stage, and as informed by the learned counsel for the respondent, out of 12 prosecution witnesses, 6 have already been examined before the learned Trial Court. The aforesaid factors and reasons, coupled with the fact that the applicant is a foreign national and has no roots in the country, and taking into account the embargo under Section 37 of NDPS Act, this Court is not inclined to grant regular bail to the applicant/accused at this stage.

[Emphasis supplied]

5. Additionally, learned SSC has also relied upon the decisions of the Hon'ble Supreme Court in **State of H.P. vs. Pawan Kumar**:(2005) 4 SCC 350, **Kanhaiyalal vs. Union of India**:(2008) 4 SCC 668 and **Ajmer Singh**



vs. State of Haryana:(2010) 3 SCC 746 qua Section(s) 42 and 50 NDPS sought to be urged by the applicant. As such, he seeks dismissal of the present application.

6. Heard and perused the documents on record.

7. Since recovery of 2537g of cocaine from the applicant, i.e. about 25 times the commercial quantity under the NDPS Act is involved, undoubtedly the rigours of Section 37 NDPS Act apply in full force. In such a situation, this Court is to assess whether there are any reasonable grounds for believing that the applicant is not guilty, as also whether she is not likely to commit further offences while on bail.

8. Considering that the applicant is a foreign national of Kenyan origin who was travelling to India aboard an international flight without any specific reasons and/ or having any connection(s) with India, and most importantly, without having any permanent roots/ address/ whereabouts herein, and from whom the huge quantity of contraband was recovered in the Duty-Free bag she was carrying in her hands, there is a strong *prima facie* case against her, and it cannot be ruled out at this stage that her sole purpose was to smuggle copious amounts of cocaine to India. All these, seen with the rigours of Section 37 NDPS Act are clearly not in favour of the applicant for grant of regular bail, at this stage.

9. Regarding the procedural aspects involved, and also the Notice(s) under Sections 42/50 NDPS Act, Section 102 Customs Act and/ or other such contentions *qua* the technicalities adopted can only be taken at the stage of trial, as it is too early for this Court to enter into the same, and that too while considering the present applicant for regular bail when the trial is yet to commence. [Re.: *Bharat Aambale (supra)*; *Kashif (supra)*;



Cissy Navyuga (supra)]. The applicant can always avail the benefit thereof at the appropriate stage.

10. Therefore, taking an overall view of the facts and circumstances involved, this Court does not see any merit in the present application at this stage.

11. Accordingly, the present application is dismissed.

12. Needless to say, expression of view(s), if any, are solely for the purposes of adjudication of the present application and shall have no bearing on the overall merits/ trial involved.

SAURABH BANERJEE, J.

MAY 05, 2026/rr