

FIR No.RC No.220/E0018/2023
PS Central Bureau of Investigation
State v.Manita Okafor
22.10.2024

Present: Sh. Shekhar Gehlot, Ld. PP for CBI.
Ms. Shiana Parveen, Ld. Counsel for applicant /
accused Manita Okafor.
IO Inspector Harvinder Singh in person.

This order of mine shall dispose off the applications for grant of interim bail as well as regular bail to the applicant / accused Manita Okafor.

Heard.

Keeping in view the report of the Medical Officer from Jail no.6, Tihar Jail, New Delhi dated 01.10.2024, 08.10.2024 and 14.10.2024, that applicant / accused was although HIV negative on 14.02.2024 but on 13.09.2024, applicant / accused was found to be HIV positive and she was examined at DDU hospital, Hari Nagar, Delhi and proper diet and prescribed medicines are being provided to her. It has also been opined that as per court order, ultra sound of the applicant / accused was got conducted at DDU hospital, Hari Nagar, Delhi and it was found that although she was having gall bladder stones (Cholelithiasis) and small uterine fibroid. But, no surgery is required at present. It has also been opined that at present vitals of the applicant / accused are stable and she is on medication for her complaints and she is under regular follow-up from the jail doctors as well as Jail visiting doctors.

In view of the aforesaid medical reports and in view of the fact that no surgery is required at present of the applicant /

accused. So, the application of the applicant / accused Manita Okafor for grant of interim bail is hereby **dismissed**.

As far as the regular bail application is concerned, Ld. Counsel for applicant / accused has relied upon the judgment of the Hon'ble Orissa High Court pronounced on 29.02.2024 that "as petitioner is HIV+ so he is entitled to bail even under the NDPS Act. But, this contention has been rightly rebutted by Ld. PP for CBI on the ground that it is a settled law that only because accused is HIV+, it would not entitle the accused to be enlarged on bail. Ld. PP for CBI relied upon the judgment of the Hon'ble Supreme Court of India in **The State of Meghalaya Vs. Lalrintluanga Sailo & Anr.**, pronounced on 16.07.2024 wherein it has laid down that "when the accused is involved in offences under NDPS Act and when the quantity of contraband is much above the commercial quantity, then the non-consideration of the provisions u/s 37 NDPS Act, has to be taken as a very serious lapse. In cases of like nature, granting bail solely on the ground that accused is HIV+ as mentioned in Bhawani Singh V. State of Rajasthan would not only go against the spirit of the said decision but also would give wrong message to the society that being a patient of such a disease is a license to indulge in such serious offences with impunity. In the contextual situation, it is to be noted that in **Bhawani Singh's case**, the offences involved was not under the NDPS Act."

Thus, in light of the law laid down by the Hon'ble Supreme Court of India in **The State of Meghalaya Vs.**

Lalrintluanga Sailo & Anr., (*Supra*) that “the twin conditions u/s 37 of the NDPS Act are to be satisfied apart from the reason that accused is a HIV positive and then only, there could be a reason to enlarge the accused on bail.”

Considering the another contention of the applicant / accused that present applicant / accused is not hit by bar u/s 37 of NDPS Act and therefore, applicant / accused be admitted to bail. On the other hand, Ld. PP for CBI contended that applicant / accused is importing the contraband i.e. MDMA by way of parcels through foreign post office and that in the form of commercial quantity in the pseudo names like Jennifer etc. but tracking the delivery of said parcels by mobile number used by her.

Keeping in view the fact that as per the charge-sheet there are allegations that the applicant / accused was using her mobile phone to track the delivery of the parcel containing contraband i.e 887 grams of MDMA by importing it from a foreign country. Even, there is recovery of another parcel at the instance of applicant / accused Manita Okafor and the said another parcel contained 1538 grams of MDMA and both parcels contained commercial quantity. Thus, these are grave and serious allegations levelled against the applicant / accused.

In view of the aforesaid reasoning and in view of the fact that although applicant / accused is HIV+ but prescribed medicines are being provided to her inside the jail itself. Also, there are allegations that applicant / accused is involved in the

present matter of recovery of commercial quantity of contraband. Further, the case is at the stage of framing of charge and there is every possibility that applicant / accused would abscond, if at liberty or would influence /threaten the witnesses if at liberty. So, I do not find any merit in the present application of the applicant / accused Manita Okafor. Hence, the present application for grant of regular bail to the applicant / accused Manita Okafor is hereby **dismissed**.

Both applications are disposed off accordingly.

This order of mine shall not effect the merits of the case.

Copy of the order be given dasti to Ld. Counsel for applicant / accused.

Copy of the order be sent to concerned Jail.

(Ekta Gauba Mann)
Special Judge (NDPS-01)
(Central) Tis Hazari Courts
Delhi/22.10.2024