

IA 2/2025 in SC No. 70/2025
NCB Vs. Edwin Chukwunonso Ozoemena

21.08.2025

Present: Sh. K. D. Pachauri, Ld. Addl. PP for the State.
Ms. Pooja Roy, Ld. Proxy counsel for Sh. Aditya
Aggarwal, Ld. Counsel for applicant (through VC).

Vide my separate order of even date, the present application is dismissed and disposed off accordingly.

Copy of the order be given *dasti* as well as be sent to jail superintendent for supplying the same to accused in jail.

(Atul Ahlawat)
ASJ/Spl. Judge, NDPS/N. Delhi
21.08.2025

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NCB Vs. Edwin Chukwunonso Ozoemena**

21.08.2025

Fresh bail application received by way of assignment vide orders of Ld. Principal District and Sessions Judge, vide order no. 21536-21610/Bail & Filing/Judl./Prin.D&SJ/NDD/2025 dated 11.08.2025 w.e.f. 13.08.2025.

ORDER

1. Vide the present order, I shall dispose off the 2nd application filed by the applicant/accused Edwin Chukwunonso Ozoemena u/s 483 BNSS, 2023 seeking grant of regular bail.

2. It has been submitted by the Ld. counsel for applicant/accused that no other bail application filed by the applicant/accused is pending before the Hon'ble Supreme Court of India, the Hon'ble High Court of Delhi or any other court qua the present matter.

3. It is submitted by the Ld. Counsel for the applicant/accused that there is no other bail application, which was earlier filed by the applicant/accused, which was dismissed on merits by this Court or any other Court.

4. IO had filed the reply to the present application. Same was perused carefully.

5. It has been submitted by the Ld. counsel for the

applicant/accused that the applicant/accused is in JC since his arrest on 03.09.2024 and as per the case of the NCB, a secret information was received on 02.09.2024 regarding a suspected parcel which was coming to Delhi from Denmark. The NCB officials reached post office and the suspected parcel was allegedly intercepted and it was found containing 4.767 kg of MDMA (commercial quantity). As per the details mentioned on the said parcel, which was address to one Rosangpuui. Later on the said person was apprehended and in her disclosure statement, the name of the present applicant/accused came up as the main person on whose behest she came to the office of the Postal Department to collect the said parcel. Later on at the instance of the said co-accused, the present applicant/accused was apprehended.

6. It has been submitted by the Ld. counsel for the applicant/accused that he is neither the consignor nor the consignee of the said parcel. His role came up only on the basis of the disclosure statement of the co-accused person. There is no recovery of any contraband which was affected from his possession, or at his instance. Therefore, the said disclosure statement has no evidentiary value in the eyes of law. Reliance is placed on the decision of the Hon'ble Supreme Court of India in ***“Tofan Singh Vs. State of Tamil Nadu”*** (2021) 4 SCC 1.

7. It has been submitted by the Ld. counsel for the applicant/accused that there is no financial trail between the

applicant/accused and the co-accused and as per the case of the NCB, certain mobile phones were shown to be recovered from the applicant/accused, however, the said phones and the SIM Cards were not in the name of the applicant/accused. It is crystal clear from the seizure memo that no public witness was made to join the seizure proceedings. There is no videography or photography of the said seizure of the mobile phones. Therefore, the possibility of the same being planted upon the applicant/accused can not be ruled out.

8. It has been submitted by the Ld. counsel for the applicant/accused that the NCB has tried to connect the applicant/accused that one WhatsApp number +447442445099. The said mobile number was not issued in the name of the applicant/accused. One notice was issued by the IO to WhatsApp LLC under section 94 BNSS, 2023, however, no reply regarding the ownership or IP address qua the said WhatsApp number was provided to the NCB. There are certain alleged chats between the applicant/accused and the co-accused, however, there is no incriminating material filed along with the complaint to show that the said mobile number was ever used by the applicant/accused, or that the said messages were indeed sent by him.

9. It is submitted by the Ld. Counsel for the applicant/accused that the applicant/accused was apprehended on 03.09.2024, after the co-accused was already arrested on

02.09.2024, therefore, the call made from the mobile phone of the co-accused to the mobile number of the applicant/accused and cannot be linked to the applicant/accused.

10. It has been submitted by the Ld. Counsel for the complainant that the grounds of arrest were never supplied to the applicant/accused and the said arrest is in violation of Article 72 (1) of the Constitution of India and also against the mandate of Section 52 of the NDPS Act, 1985 and Section 47 of BNSS, 2023.

11. It has been submitted by the Ld. Counsel for the complainant that applicant/accused has placed the reliance of the order passed by this Court in “**NCB Vs. Monteiro Carlos**”, IA No. 1/25 in SC No. 403/24 02.08.2025, since the case of the applicant/accused is similar to the case of the petitioner in the said case.

12. It has been submitted by the Ld. Counsel for the complainant that applicant/accused has also placed reliance on the decision of the Hon’ble High Court of Delhi in “**Abu Kalam @ Sultan Vs. State GNCTD and Anr**”, Bail Application no. 1011/2023 and “**Arun Kumar Azad Vs. NCB**”, Bail Application no. 3620/2023.

13. It is submitted by Ld. SPP for NCB duly assisted by the IO that the applicant/accused is the kingpin of the conspiracy. The

co-accused was sent by him to receive the parcel. The name and mobile number of the co-accused was mentioned as the consignee, at the behest of the applicant/accused. The applicant/accused was regular in touch with co-accused, it is evident from the Whatsapp chats recovered from both mobile phones of the applicant/accused and co-accused. The applicant/accused had deleted the data from his mobile phone, however, the same was recovered by CFSL, Ahmedabad. The recovered chats have been filed alongwith the complaint. Furthermore, there were regular chats between him and co-accused, wherein he was giving the directions to the co-accused regarding the parcel in question. He was consistently tracking the said parcel online, from the date of its booking i.e. 16.04.2024, till the date of its recovery i.e. 02.09.2024. The entire web history of the applicant/accused checking the website of EMSC (Postal Company), wherein he had regularly entered the AWB number and other details were recovered and duly placed on the record. There is recovery of commercial quantity of the contraband in the present case. The statutory presumptions under Section 35 and 54 of the Act have come into play. Therefore, the NCB has strongly opposed the present application.

14. In Rebuttal, it is submitted by the Ld. counsel for applicant/accused that he has no past antecedents and the disclosure statement of the co-accused is only incriminating evidence against him at the stage. The probative value of the evidence is a matter of trial and same cannot be looked into at

this stage. The charges are yet to be framed and trial is going to take a long time therefore the applicant/accused is praying for the grant of regular bail and he is undertaking to abide with any condition that this Court may impose upon him.

15. I have carefully perused the reply filed by the and considered the submissions made by the parties. Considering the nature of the evidence and severity of the punishment prescribed for the said offences, coupled with the fact that in addition to the disclosure statement of the co-accused person, there are other incriminating materials on the record, such as whatsapp chats between him and the co-accused. There is a the web browsing history, wherein he was continuously tracking the parcel from the date of its shipment to the date when it was received in the office of post office. The whatsapp chats clearly shows that the applicant/accused was guiding the co-accused regarding the parcel and how she was supposed to pick it up.

16. The applicant/accused had deleted the data from his phone, however, the said was recovered by NFSU, Ahmedabad.

17. The case of the applicant/accused is clearly distinguishable with the case of Monterio Carlos (Supra), since in the said case the grounds of arrest were not separately provided and the arrest memo did not mention as to how the said petitioner was linked with the recovery of the contraband in question. Furthermore, the said decision was passed by this Court by appreciating the law laid down by the Hon'ble Supreme Court of India in ***Pankaj***

Bansal Vs UOI & Ors.” (2024) 7 SCC 576; ***“Prabir Purkayastha Vs State (NCT of Delhi),*** (2024) 8 SCC 254; ***“Vihaan Kumar vs State of Haryana”,*** 2025 SCC OnLine SC 269 and ***“Kasireddy Upender Reddy Vs State of Andhra Pradesh & Ors.,*** Neutral Citation: 2025 INSC 768.

18. The said decisions were passed prior to 14.08.2025, i.e. the date on which the Hon’ble Supreme Court of India has recently in state of ***“Karnataka Vs. Sri Darshan Etc.”***, Neutral Citation 2025 INSC 979 has discussed all the previous decisions and held that the constitutional and statutory framework does mandate that the arrested person must be informed of the grounds of arrest, however, neither provision prescribes a specific form, or insists upon written communication in every case. The judicial precedents of the Hon’ble Apex Court have clarified that the substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown. Both the decisions in Vihaan Kumar (Supra) and Kessireddy (Supra) have clarified that written, individualized grounds are not an inflexible requirement in all circumstances.

19. Therefore, this Court is bound by the interpretation of the law and the earlier decisions passed by the Hon’ble Supreme Court of India, in the aforementioned decision of Sri Darshan (Supra). No demonstrable prejudice is shown by the applicant/accused, therefore, no ground for grant of bail is made out on this aspect of grounds of arrest.

20. At this stage this quote cannot give any finding upon the conditions enshrined under section 37 of the Act. The present application is hereby dismissed accordingly.

21. It is needless to say that nothing stated herein shall tantamount to an opinion or expression on the merits of the case.

22. Copy of this order be given dasti to the parties.

23. Application stands disposed off accordingly.

(Atul Ahlawat)
Bail Roster Judge
ASJ/Spl. Judge, NDPS/N. Delhi
21.08.2025.