

**IA2/25 SC276/21
NCB VS KULWA YOHANA MARTINE**

27.10.2025

This Court is also looking after the bail roster work of the Court of Ld. ASJ-05, PHC, New Delhi District as the bail roster Link Judge.

Present: Sh. Mukeysh Malik, Ld. SPP for NCB.

Ms. Shilpa Dua, Ld. counsel for applicant/accused.

This is an application seeking reduction of the number of the sureties and the surety amount filed U/s 484 (2) r/w Section 490 BNSS, 2023, wherein the applicant/accused is also praying for the deposit of the surety amount in cash as recognizance.

Arguments heard.

Vide my separate order of even date, the present application is allowed 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
27.10.2025**

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ORDER

1. Vide the present order, I shall dispose off the application filed by the applicant/accused u/s 484(2) of BNSS, 2023 seeking reduction of surety amount and deposit of cash in lieu of surety filed on behalf of the applicant/accused Kulwa Yohana Martine.
2. It has been submitted by the Ld. Counsel for the applicant/accused that no other similar application is pending before the Hon'ble Supreme Court of India or the Hon'ble High Court of Delhi.
3. It has been submitted by the Ld. Counsel for the applicant/accused that the applicant/accused was granted regular bail by this Court vide order dated 06.10.2025. As per the conditions imposed in the said order, the applicant/accused was admitted to bail subject to furnishing bail bond in the sum of Rs. 100,000/- with two sureties of the like amount.
4. It has been submitted by the Ld. Counsel for the applicant/accused that applicant/accused is a foreign national and he is not able to procure the said surety and he is ready to deposit the surety amount in view of Section 490, BNSS, 2023.
5. It is fairly submitted by the Ld. SPP for NCB that he has

no objection if the present application is allowed, subject to the applicant/accused submitting the surety amount before this Court.

6. It is trite law that the trial court has to balance and correlate the imperative of setting prisoners at liberty pursuant to the bail order and securing their fundamental rights with the demand of producing adequate sureties as an assurance of their regular attendance at the trial and as a deterrence against the possibility of them fleeing from the justice. It is equally important that the trial court should also factor the socio-economic background of the prisoner while fixing the number and amount of sureties. At times, persons belonging to extremely poor background, simply do not have the requisite social standing or financial clout to arrange multiple sureties, therefore, at times, the UTPs belonging to poor economic strata or socially marginalized segments of the society may not be set at liberty despite being enlarged on bail. The purpose of sureties is certainly dissuasive in intent, however, setting higher surety amounts and number of sureties may at times have punitive impact instead. The Hon'ble Supreme Court of India had dealt with the issue of constitutional promise of equality for all citizens and a realistic understanding of the socio-economic landscape of the country underlying the concept and rationale of the scope of sureties in the cases of bail in "***Moti Ram and Ors. Vs. State of Madhya Pradesh***" (1978) 4 SCC 47. Furthermore, in the landmark decision of "***Hussainara Khatoon Vs. State of Bihar***" AIR 1979 SC 1360 had mandated the consideration of the roots of an accused in the community so as

to advocate a moot fact based approach in tune with the social realities to serve justice as follows:

“To determine whether the accused has his roots in the community which would deter him from fleeing, the court should take into account the following factors concerning the accused,

- 1. The length of his residence in the community.*
- 2. His/her employment status, history and his financial condition,*
- 3. His family ties and relationship*
- 4. His reputation, character and monetary condition,*
- 5. His prior criminal record including any record of prior release on recognizance or on bail,*
- 6. The identity of responsible members of the community who would vouch for his reliability,*
- 7. The nature of the offence charged and the apparent probability of conviction and the likely sentence in so far as these factors are relevant to the risk of non appearance, and*
- 8. Any other factors in relating the ties of the accused with the society.”*

7. While dealing with similar issues, it has been held by the

Hon'ble High Court of Delhi in '*Mark Paul Obioma Vs. NCB*', bail application no. 1475/2022 and in '*Bartholomew Vs. State*', bail application no. 1424/2023 have exercised the discretion to reduce the bail bond amount. Furthermore, in '*Gilbert Apeh Emeka Vs. NCB*' bail application no. 3269/2023 has directed the petitioner therein to be released on furnishing of the personal bail amount, instead of producing the sureties, since the petitioner was a foreign national and no one was willing to give surety on his behalf and the said contention was found to be plausible.

8. This court is of the view that it is a fit case to exercise its powers u/s 484 (2) r/w 490 of BNSS, 2023 and **applicant/accused is allowed to deposit the surety bond amount of Rs. 50,000/- and upon his release, he shall deposit Rs. 50,000/- in cash or FDR before this Court and shall also produce one surety in the sum of Rs. 50,000/-, within two weeks of his release.**

9. With these conditions, the present application moved under section u/s 484 (2) r/w 490 of BNSS, 2023 on behalf of **applicant/accused Kulwa Yohana Martine** stands disposed of. The other conditions imposed by this Court vide order dated 06.10.2025 shall remain in force.

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

11. Copy of this order be sent to concerned Jail Superintendent.
12. Copy of this order be given dasti to the parties.
13. Application stands disposed of accordingly.

(ATUL AHLAWAT)
ASJ NDPS Act
(Special Judge)/PHC
NDD/27.10.2025