

**IN THE COURT OF JITENDRA PRATAP SINGH
ADDL. SESSIONS JUDGE /SPECIAL JUDGE (NDPS),
NEW DELHI DISTRICT, PATIALA HOUSE COURTS,
NEW DELHI**

IA11/26 SC277/25

NCB VS ROGER TEBUDINIJJANWA SENOGA & ORS.

(Applicant/accused Hasifah Nankya)

15.05.2026

Present: Sh. Avnish Singh, Ld SPP for NCB.

Sh. J.S. Kushwaha, Ld. Counsel for
applicant/accused.

1. Vide this order, I shall dispose of the application moved on behalf of the applicant/accused Hasifah Nankya seeking waiver/reduction of the bail conditions to the extent of permitting her to get released upon waiver/reduction of the amount of surety and from two sureties to the minimum.

2. It is further submitted that no similar application is either filed or is pending before this Court or before Hon'ble Supreme Court of India. During the course of arguments, the Ld. Counsel has submitted that no such application has also been filed before the Hon'ble High Court of Delhi.

3. The applicant was granted bail by this Court vide order dated 11.03.2026 subject to furnishing personal bond in the sum of Rs.1,00,000/- with two sureties of like amount. It is submitted that the applicant is a foreign national and is poor and her family has not been able to send any money from Uganda She has no local acquaintance and as such cannot furnish two local sureties. That she has been in custody since 19.03.2025 and as such cannot furnish the personal bond in the sum of Rs.1,00,000/- and two sureties of like amount. Relying on the judgement of Hon'ble Supreme Court of India dated 05.02.2021 in the case titled In Re- Inhuman Conditions in 1382 Prisons, WP(C) No. 406 of 2013, it is submitted by the Ld. Counsel of the accused that poverty cannot be a reason for detaining him any further. It is prayed that the surety amount be reduced or waived and the number of sureties be also reduced.

4. Per contra, Ld. SPP for the NCB has opposed the application on the ground that the applicant is a foreign national involved in heinous offence of trafficking of commercial quantity of contraband having several involvements and if sufficient conditions are not imposed, he is likely to abscond.

5. I have heard the submissions and perused the record.

6. At the outset, it is to be noted that the applicant already stands admitted to bail by a detailed order of this Court. Thus, the present application does not pertain to grant of bail, but only to modification of the condition relating to furnishing of surety. Bail has already been granted after consideration of the relevant factors.

7. The purpose of insisting upon surety is to secure the presence of the accused during trial and to ensure that he does not abscond. The object is not punitive. It is settled that bail conditions should not be so onerous as to defeat the very grant of bail. Once this Court has deemed it appropriate to enlarge the applicant on bail, the conditions imposed must remain reasonable and capable of compliance.

8. It is not disputed that the applicant has failed to produce sound surety since 11.03.2026 on which date she was granted bail by this Court. At the same time, the applicant is a foreign national and, as such, arranging a local surety of means may pose practical difficulty. The Court cannot lose sight of the fact that liberty granted by judicial order cannot be rendered illusory on account of inability to furnish local surety, if alternative safeguards can adequately secure his presence.

9. It is trite law that the trial court has to balance and co-relate 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 time 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.”*

10. 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.

11. This court is of the view that it is a fit case to exercise its powers u/s 484 (2) of BNSS, 2023 and **applicant/accused is allowed to be released on bail on furnishing of personal bond in the sum of Rs.100,000/- and only one surety (in place of earlier ordered two sureties) in the sum of Rs.100,000/-.**

12. With these conditions, the present application moved under section u/s 484 (2) BNSS, 2023 on behalf of applicant/accused stands disposed of. The other conditions imposed by this Court vide order dated 11.03.2026 shall remain in force.

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

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

(Jitendra Pratap Singh)
ASJ/Spl. Judge, NDPS/N Delhi
15.05.2026