

IA7/26 SC230/24

NCB VS EMMA ODUGWU EMEAFU @JOSHUA

Case No. VIII/55/DZU/2023

U/s 8/22/23/29 NDPS Act

27.03.2026

Present: Sh. Harssh, Ld proxy counsel on behalf of Sh Arun
Khatrri, Ld SPP for NCB.

Sh. Vikas Gautam, Ld. counsel for
applicant/accused.

Vide my separate order of even date, the application
filed on behalf of the applicant/accused Emma Odogwu Emeafu
@ Joshua, seeking grant of regular bail, is dismissed and
disposed of accordingly.

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

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/27.03.2026

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

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ORDER

1. Vide this order, I shall decide the present bail application moved on behalf of the accused Emma Odogwu Emeafu @ Joshua seeking grant of bail in the present case. The present application is the fourth bail application filed on behalf of the accused (although mentioned as third in the subject of the application). Earlier bail applications of the accused have already been dismissed by this Court. The bail application of the accused was also dismissed by the Hon'ble High Court of Delhi.

2. It is submitted by Ld. Counsel for applicant/accused and affirmed by the IO that there is no other bail application preferred by the present applicant/accused which is pending disposal before the Hon'ble Supreme Court of India, before the Hon'ble High Court of Delhi, or any other Court in the present case FIR.

3. Briefly stated, the case of the prosecution is that on 05.12.2023, specific information was received that a parcel lying at DHL Express Pvt. Ltd., Rama Road, near Kirti Nagar, Najafgarh Industrial Area, New Delhi was suspected to contain narcotic drugs. Acting upon the said information, a team of

officials of Narcotics Control Bureau, Delhi Zonal Unit was constituted and the team proceeded to the said premises for verification and necessary action. Upon inspection, a parcel bearing Airway Bill No. 2697735154 was located. The parcel mentioned the consignor as Dilip Singh Chouhan, resident of Mandawali, East Delhi and the parcel was addressed to one Alex Thompson at an address in Brunswick West, Victoria, Australia.

4. The said parcel was opened and it was found to contain seven bangle display stands. Upon careful checking of the said stands, concealed cavities were found inside the stands and from each of the stands a transparent polythene packet wrapped in black velvet cloth containing a white crystalline substance was recovered. The substance recovered from all the packets was tested with the field testing kit and the result was positive for Amphetamine. On weighing, the total weight of the recovered substance from all seven packets was found to be 272 grams. The substance was seized in accordance with the provisions of the NDPS Act, marked separately and sealed, and a panchnama was prepared at the spot in the presence of independent witnesses.

5. Thereafter, during follow-up investigation in respect of the said parcel, the NCB team conducted further investigation which led them to Flat No. 203, C-31, Dayalbagh Colony, Faridabad, Haryana, on 21.12.2023, which was the residence of co-accused Chuks Joel Dugbere @ George. During the search of the said premises, a further recovery of 16.718 kilograms of substance, later identified as Pseudoephedrine as per CRCL report, was effected and the said accused was arrested in the present case.

6. During preliminary inquiry, the said co-accused disclosed that the recovered substance had been supplied to him by the present accused Emma Odogwu Emeafu @ Joshua @ Emmanuel Chike Emeafu, who was residing at New Mahabir Nagar, New Delhi. On the basis of the disclosure and further investigation, the NCB team reached the residence of the present accused and conducted a search of his premises, during which a further recovery of 520 grams of Ephedrine (pseudoephedrine as per CRCL report) was effected from his house and the present accused was arrested on 22.12.2023.

7. It is further the case of the prosecution that during inquiry, the present accused disclosed that he was engaged in drug trafficking activities and was operating on the directions of his associate Ugo. During investigation, incriminating material was allegedly recovered from the mobile phones of the accused persons including photographs of narcotic drugs, WhatsApp chats between the present accused and co-accused Chuks Joel Dugbere regarding sending parcels to foreign countries, sharing addresses of recipients in New Zealand, Hong Kong and Australia and certain notes relating to calculation of proceeds of the drug business. It is also alleged that the accused had received an amount of Rs. 5,50,000/- in connection with the drug trafficking activities, out of which Rs. 3,30,000/- was recovered from his house during the search proceedings.

8. It is submitted by the Ld. counsel for the applicant that the present applicant has been falsely implicated in the present case and his involvement has been shown only on the basis of the

disclosure statement of the co-accused and the alleged recovery effected from his rented premises. It is submitted that as per the prosecution case itself, 272 grams of methamphetamine was recovered from a parcel which was allegedly booked by co-accused Amir on the instructions of co-accused Chuks Joel, and the investigation revealed that the IP log of the email ID and the mobile number used for tracking the parcel were found in the name of co-accused Chuks Joel and not in the name of the present applicant. It is thus argued that the parcel recovery is not attributable to the present applicant and he has been falsely implicated in the case subsequently.

9. It is further submitted that on 21.12.2023 the house of co-accused Chuks Joel was searched and from his premises 16.718 kg pseudoephedrine was allegedly recovered, and only thereafter during the preliminary inquiry/disclosure statement of the said co-accused, the name of the present applicant was disclosed. It is submitted that thereafter the search of the house of the present applicant was conducted and from his house 520 grams of pseudoephedrine was recovered. It is argued that the entire case against the applicant is thus based upon the disclosure statement of the co-accused and the alleged recovery from his rented premises and there is no independent evidence linking the applicant with the parcel recovery or with the contraband recovered from the co-accused.

10. The Ld. counsel for the applicant has further submitted that there has been a serious violation of the constitutional and statutory safeguards relating to arrest in the present case. It is

submitted that the applicant was formally arrested on 22.12.2023 after the alleged recovery from his house, however, the grounds of arrest were not supplied to him in writing as required under Article 22 of the Constitution and Section 50 Cr.P.C. (now Section 47 BNSS, 2023). It is further argued that even when the applicant was produced before the Court on 22.12.2023 and police custody was sought, neither the accused nor his counsel were supplied the written grounds of arrest. It is submitted that the arrest memo and the remand order do not record that written grounds of arrest were supplied to the accused, and therefore the arrest of the applicant is illegal and vitiated in law. In support of this contention, reliance has been placed upon the judgments of the Hon'ble Supreme Court in Pankaj Bansal vs. Union of India 2024 (7) SCC 576; Prabir Purkayastha vs. State, 2024 (8) SCC 254; Vihan Kumar vs. State of Haryana, 2025 (5) SCC 799 and Mihir Rajesh Shah vs. State of Maharashtra, Crl. Appeal No. 2195/2025, decided by the Hon'ble Supreme Court of India, wherein it has been held that non-supply of written grounds of arrest violates the constitutional mandate and renders the arrest illegal.

11. It is further submitted by the Ld. counsel for the applicant that the alleged recovery of 520 grams of pseudoephedrine from the house of the applicant cannot be clubbed with the recovery of 272 grams of methamphetamine from the parcel allegedly sent by the co-accused persons, and therefore the quantity allegedly recovered from the applicant cannot be treated as commercial quantity by clubbing the recoveries. It is argued that the recoveries are separate and independent recoveries and therefore

the rigours of Section 37 NDPS Act would not apply in the present case. In support of this contention, reliance has been placed upon the judgments of the Hon'ble Delhi High Court in Chhalimuddin vs. State, Bail Application No. 3017/2024, dated 01.04.2025 and Jaipal vs. State, Bail Application No. 3729/2024 dated 09.01.2025, wherein it has been held that separate recoveries cannot be mechanically clubbed together for the purpose of determining commercial quantity unless there is clear evidence of conspiracy and common transaction.

12. It is further submitted that the present bail application is based on changed circumstances and new grounds which were not raised earlier either before this Court or before the Hon'ble High Court while considering the earlier bail applications of the applicant. It is submitted that the illegality in arrest due to non-supply of written grounds of arrest and the issue of non-clubbing of recoveries constitute fresh grounds for grant of bail. It is thus argued that in view of the illegal arrest, absence of direct recovery of methamphetamine from the applicant and the fact that the recoveries cannot be clubbed together, the applicant is entitled to be released on bail.

13. During the course of arguments, the Ld. counsel for the applicant submitted that for the purpose of the present bail application, the applicant is pressing the application on a limited ground, namely that the grounds of arrest were not supplied to the applicant in writing at the time of his arrest. It was argued that non-supply of written grounds of arrest is a violation of Article 22 of the Constitution of India and Section 47 of the

BNSS, 2023 and therefore the arrest of the applicant stands vitiated in law. It was further submitted that the arrest memo of the accused itself would show that no separate written grounds of arrest were provided to him at the time of arrest. It was also argued that the personal search memo/jamatalashi memo of the accused does not mention any document relating to written grounds of arrest having been recovered from his possession, which clearly shows that no such written grounds of arrest were ever supplied to the accused. It is thus submitted that the mandatory requirement of law regarding communication and supply of grounds of arrest has not been complied with and therefore the applicant is entitled to be released on bail on this ground alone.

14. Reliance has also been placed by the accused upon the judgments of the Hon'ble Delhi High Court in *Habibur Molla vs State*, Neutral Citation: 2026:DHC: 508, in support of the argument that non-supply of ground of arrest entitles the accused to bail.

15. The Ld. SPP for NCB has opposed the application stating that the same is based on incorrect appreciation of facts and law. That it deserves to be dismissed as grounds of arrest have been supplied to the accused. That the application is a feeble attempt to mislead the Court by raising a new ground when the applicant did not succeed earlier on three occasions in getting bail. Reliance is placed on behalf of the NCB on the judgment of *Karan Singh v. State*, in Neutral Citation: 2026: DHC: 570-DB, in support of the submission that reliance on *Mihir Rajesh Shah*

(Supra) is mistaken as the accused was arrested much prior to 06.11.2025, on which date, the said judgment was pronounced. The NCB has further relied on the decision of Amit Bhatnagar v. NCB, Bail Application 1804/2025, dated 27.08.2025, decided by the Hon'ble High Court of Delhi, wherein the grounds mentioned in the arrest memo of the accused was held as a sufficient compliance of the directions of Pankaj Bansal (Supra) and Prabir Purkayastha (Supra).

16. I have heard the rival submissions and have carefully perused the record.

17. The main ground pressed by the Ld. counsel for the applicant is that the applicant was not supplied with written grounds of arrest and therefore his arrest and subsequent custody are illegal. There is no dispute with the legal proposition that non-communication or non-supply of grounds of arrest may render the arrest illegal as it violates Article 22 of the Constitution of India and the statutory mandate under Section 47 BNSS. However, whether such violation has in fact occurred in the present case has to be examined from the record.

18. In the present case, the arrest memo of the accused has been perused. The arrest memo clearly records the reasons for arrest and specifically mentions that the accused was being arrested consequent to recovery of narcotic substances including recovery of 272 grams of amphetamine from a parcel, recovery of contraband from the premises of co-accused and recovery of 520 grams of amphetamine from the house of the present applicant and that there were reasons to believe that the accused

had committed offences under Sections 8, 22, 23 and 29 of the NDPS Act. The arrest memo further specifically records that “before his arrest ground of arrest have been explained to him.” The arrest memo bears the signatures/endorsement of the accused acknowledging the same.

19. Thus, from the arrest memo itself, it is evident that the grounds of arrest were communicated to the accused at the time of arrest and the accused acknowledged that he had understood the grounds of arrest. Once the accused has signed the arrest memo acknowledging that the grounds of arrest were explained to him, at this stage it cannot be prima facie held that the grounds of arrest were not communicated to him. The Court finds strength for this view, from the decision of Amit Bhatnagar (Supra).

20. The argument of the Ld. counsel for the applicant that no separate written document of grounds of arrest was supplied and that the personal search memo does not show recovery of any such document, does not by itself conclusively establish that the grounds of arrest were not communicated. The requirement of law is that the accused must be informed of the grounds of arrest. Communication of grounds of arrest is different from recovery of a written document from personal search. Non-mention of a separate document in the personal search memo cannot automatically lead to the conclusion that the grounds of arrest were not communicated, particularly when the arrest memo itself records that the grounds of arrest were explained to the accused and the accused has acknowledged the same.

21. The judgments relied upon by the applicant regarding non-

supply of grounds of arrest are distinguishable on facts. In those cases, either the prosecution admitted that the grounds of arrest were not supplied or there was absolutely no document showing communication of grounds of arrest. In the present case, however, the arrest memo itself contains a written record of the grounds of arrest and also records that the same were explained to the accused before his arrest and the accused acknowledged the same. Therefore, the factual matrix in the present case is different from the cases relied upon by the applicant.

22. Another important aspect is that the Hon'ble High Court of Delhi has already considered the bail application of the present applicant and has dismissed the same. The Hon'ble High Court has already examined the role of the applicant, the recoveries effected and the material on record while declining bail. There is no substantial change in circumstances since the dismissal of the bail application by the Hon'ble High Court. Successive bail applications cannot be entertained on the same grounds in the absence of any change in circumstances.

23. Furthermore, the case involves offences under the NDPS Act involving commercial quantity and therefore the rigours of Section 37 NDPS Act apply. At this stage, this Court is not satisfied that there are reasonable grounds for believing that the applicant is not guilty of the alleged offence or that he is not likely to commit any offence while on bail. Thus, the twin conditions of Section 37 NDPS Act are not satisfied.

24. In view of the above discussion, this Court does not find any ground to grant bail to the applicant. Accordingly, the present

bail application stands dismissed.

25. Nothing stated herein shall be construed as an expression on the merits of the case during trial.

26. The coversheet in compliance of the practice directions no. 124/Rules/DHC dated 10.12.2024, containing the directions passed by the Hon'ble Supreme Court of India in "***Suhas Chakma Vs. Union of India & Ors.***", Neutral Citation 2024 INSC 813 is issued separately.

27. The application stands disposed of accordingly. Copy of the present order be given *dasti* and same be also sent to concerned jail superintendent, to be supplied to the applicant/accused.

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/27.03.2026