

NCB Vs. Egenti Wisdom Chibueze
IA 27/2025 SC No. 448/2024
NCB Crime No. VIII/21/DZU/2024
U/s 8/22/29 NDPS Act

14.05.2026

Present: None.

Vide my separate order of even date, the present application for bail of accused Egenti Wisdom Chibueze 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/14.05.2026

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

14.05.2026

ORDER

1. Vide this order, I shall dispose of the sixth bail application moved on behalf of accused/applicant Egenti Wisdom Chibueze under Section 439 Cr.P.C./483 BNSS seeking regular bail.

2. It is submitted by Ld. Counsel for the applicant/accused 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. It is submitted by Ld. Counsel for the applicant that the applicant is innocent and has been falsely implicated. It is argued that the applicant is in judicial custody since 29.06.2024 and has already undergone custody of more than 18 months. It is further submitted that there are 24 prosecution witnesses and the trial is likely to take considerable time.

4. The main thrust of the argument is that the arrest of the applicant is illegal as the grounds of arrest were not communicated to him in accordance with law. It is submitted that the arrest memo was mechanically prepared at 3:00 a.m. and the jamatalashi memo was prepared at 3:10 a.m. on 29.06.2024. It is

argued that the personal search memo records only Indian currency, one wrist watch and notice under Section 67 NDPS Act and does not record any written grounds of arrest. According to the defence, had the grounds of arrest been actually supplied, they would have found mention in the jamatalashi memo.

5. Ld. Counsel has relied upon the judgments in *Pankaj Bansal v. Union of India*, (2024) 7 SCC 576, *Prabir Purkayastha v. State (NCT of Delhi)*, (2024) 8 SCC 254 and *Vihan Kumar v. State of Haryana*, 2025:INSC:162 and *Gagan v. State (NCT of Delhi)*, Bail Application No. 73/2025, decided by the Hon'ble Supreme Court of India, to submit that non-supply of grounds of arrest vitiates the arrest and entitles the accused to bail.

6. It is further submitted that co-accused Mohd. Nadeem was granted bail on the ground of defective communication of grounds of arrest and, therefore, the applicant is also entitled to parity.

7. It is also argued that the applicant was not the person who booked the parcels at DTDC Courier. It is submitted that there is no call, message or digital material from the mobile phone of the applicant to show that he had knowledge of the contents of the parcels or the substance allegedly recovered from him. It is further submitted that no independent public witness was joined and the alleged witnesses are stock witnesses. It is lastly argued that conscious possession is not established and, therefore,

Section 37 NDPS Act would not come in the way of grant of bail.

8. Per contra, Ld. SPP for NCB has strongly opposed the application. It is submitted that the present application is a successive bail application and is substantially a repetition of grounds already considered and rejected by this Court vide earlier orders dated 18.07.2025 and 14.10.2025. It is argued that there is no fresh circumstance or material change warranting reconsideration.

9. It is submitted that the present case involves commercial quantity. The applicant was apprehended on 28.06.2024 while carrying a white polythene bag in his right hand. The said bag contained crystalline white substance which tested positive for Amphetamine. The total weight was 86 grams. It is submitted that commercial quantity of Amphetamine is 50 grams and, therefore, the rigour of Section 37 NDPS Act is fully attracted.

10. Ld. SPP submits that the applicant was apprehended on the disclosure and identification of co-accused Mohd. Nadeem. It is further submitted that the applicant attempted to flee and was caught after a chase of about 500-700 metres. At the spot, he disclosed that the polythene contained drugs which were to be delivered to Mohd. Nadeem. His statement under Section 67 NDPS Act was recorded. His scooter was also seized. It is also submitted that the accused is a foreign national and his visa had expired.

11. Regarding grounds of arrest, it is submitted that the arrest memo clearly records that the grounds of arrest were informed and explained to the applicant. It is further submitted that the jamatalashi memo is only meant to record articles recovered during personal search and there is no legal requirement that the grounds of arrest must be reflected in the jamatalashi memo. It is argued that this very ground was earlier considered and rejected vide order dated 14.10.2025, after considering the judgment in *State of Karnataka v. Sri Darshan*, 2025:INSC:979, wherein substantial compliance was held to be sufficient unless demonstrable prejudice is shown.

12. I have heard the learned counsel for the applicant, learned SPP for NCB and have also perused the record.

13. At the outset, it is necessary to note that this is the sixth bail application of the applicant. Successive bail applications are maintainable only when there is a substantial change in circumstance or when fresh grounds are made out. Repetition of grounds already urged and rejected cannot be permitted to reopen the matter at every stage.

14. In *State of Maharashtra v. Captain Buddhikota Subha Rao*, AIR 1989 SC 2292 and *Kalyan Chandra Sarkar v. Rajesh Ranjan @ Pappu Yadav*, (2005) 2 SCC 42, it has been held that although successive bail applications are not barred, the Court must examine the reasons for rejection of earlier applications and must record what fresh ground has persuaded it to take a different

view.

15. In the present case, the earlier bail applications of the applicant were dismissed on merits. The fifth bail application was also dismissed vide order dated 14.10.2025. The grounds of non-supply of grounds of arrest, parity with co-accused Nadeem, prolonged custody, alleged lack of conscious possession and applicability of Section 37 were specifically considered. The present application substantially reiterates the same grounds.

16. The applicant has not shown any fresh material change after passing of order dated 14.10.2025. Mere further passage of time in custody, by itself, cannot be treated as a substantial change, particularly in a case involving commercial quantity under the NDPS Act.

17. The Ld. Counsel has argued that subsequent to the order dated 14.10.2025, there is a substantial change in law in view of the judgment of the Hon'ble Supreme Court of India titled *Dr. Rajinder Rajan v. Union of India & Anr.*, SLP (CRL) No. 3326/2026, dated 01.04.2026. He has further placed reliance on the decision of Hon'ble High Court of Delhi titled *Saqlain Raza Khan v. State of NCT of Delhi*, 2026:DHC:2299 and on the decision of Hon'ble Supreme Court of India titled *Ahmed Mansoor & Ors. v. the State*, Criminal Appeal No. 4505/2025, decided on 14.10.2025.

18. The Court has perused the said citations carefully. In *Dr.*

Rajinder Rajan (Supra), the Hon'ble Supreme Court has been pleased to reiterate the earlier decisions of *Mihir Rajesh Shah v. State of Maharashtra & Anr.* (2026) 1 SCC 500 to hold that any deviation from non-supplying of grounds of arrest in writing before the arrest or under exceptional circumstances, immediately thereafter, would lead to the arrest of the accused being declared illegal entitling such accused to be released forthwith. The date of decision of the *Mihir Rajesh Shaha* is 06.11.2025. It is relevant to quote the following paragraphs of the said case:

“.....58. *We are cognizant that there existed no consistent or binding requirement mandating written communication of the grounds of arrest for all the offences. Holding as above, in our view, would ensure implementation of the constitutional rights provided to an arrestee as engrafted under Article 22 of the Constitution of India in an effective manner. Such clarity on obligation would avoid uncertainty in the administration of criminal justice. The ends of fairness and legal discipline therefore demand that this procedure as affirmed above shall govern arrests henceforth.*”

19. It is apparent that the procedure for supplying written grounds of arrest has to be considered as sufficient to hold an accused entitled to be released only if he is arrested without providing to him written grounds subsequent to 06.11.2025. The date of arrest in the present case is 29.06.2024 and therefore, the accused cannot be held entitled to be released on bail. For this reason, the reliance on *Saqlain Raza Khan (Supra)* is again

misplaced. In *Ahmed Mansoor (Supra)*, there is no mention of the date of arrest of the petitioners so as to enable this Court to take a different view from the above-mentioned observations. The above mentioned discussion and particularly the detailed order dated 14.10.2025 of the Ld. Predecessor rejecting the bail after considering the plea of non-supply of grounds of arrest leads this Court to the conclusion that the applicant has failed to present any sufficient change of circumstances so as to give a finding different from that given earlier vide order dated 14.10.2025. Once a finding on merits relating to the grounds of arrest has been given, it is not permissible for this Court to give a contrary decision.

20. The present case involves commercial quantity. Section 37 NDPS Act starts with a non-obstante clause. Before granting bail in such a case, the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty and that he is not likely to commit any offence while on bail. These conditions are in addition to the ordinary considerations for bail.

21. In *State of Kerala v. Rajesh*, MANU/SC/0084/2020 the Hon'ble Supreme Court has reiterated that the expression "reasonable grounds" means something more than prima facie grounds. It contemplates substantial probable cause for believing that the accused is not guilty.

22. Applying the above principles, this Court is unable to

record satisfaction in favour of the applicant. The material placed by the prosecution shows direct recovery of 86 grams of Amphetamine from the applicant, which is commercial quantity. The statutory presumptions under Sections 35 and 54 NDPS Act are also relevant at this stage. The applicant has not placed such material which may persuade this Court to believe that he is not guilty.

23. The applicant is also a foreign national. As per the prosecution, he did not provide complete passport and visa details and his visa had expired. This aspect is relevant while considering the possibility of securing his presence during trial. The apprehension of flight risk cannot be said to be unfounded.

24. The custody period of the applicant has also been considered. The applicant is in custody since 29.06.2024. However, the custody period, in the facts of the present case, does not by itself dilute the rigour of Section 37 NDPS Act. There is no material to show that the trial is being deliberately delayed by the prosecution or that the custody has become so excessive as to override the statutory bar at this stage.

25. Considering the nature of allegations, quantity recovered, stage of trial, previous rejection of bail applications, absence of fresh substantial change in circumstance and the statutory embargo under Section 37 NDPS Act, no ground is made out for grant of regular bail.

26. Accordingly, the sixth bail application moved on behalf of accused/applicant Egenti Wisdom Chibueze is hereby dismissed.

27. Nothing stated herein shall be construed as an expression on the merits of the case.

28. 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.

29. Application is disposed of accordingly. A copy of this order be given *dasti* to all concerned parties. Copy of this order be sent to concerned Jail Superintendent, for necessary intimation to the applicant/accused.

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/14.05.2026