

Misc CrI 1693/2025  
STATE Vs. THOMPSON APITI ALIAS EMEKA  
FIR No. 425/2024  
PS- (Sun Light Colony)  
u/s 21/29 of NDPS Act & Section 14 Foreigners Act

17.03.2026

**This is an application under Section 483 of Bhartiya Nagrik Suraksha Sanhita, 2023, filed on behalf of the applicant/accused Thompson Apiti @ Emeka for grant of regular bail.**

Present: Sh. S. K. Kain, Ld. Addl. PP for the State.  
Sh. Javed Khan and Ms. Anshula Gupta, Ld.  
Counsel for the applicant/accused.  
IO/Inspector Shubham Chaudhary is present.

1. Vide this order, I shall adjudicate upon the regular bail application filed on behalf of the applicant/accused Thompson Apiti @ Emeka. Arguments were heard at length, the gist whereof is discussed hereunder.

2. Ld. Counsel for the applicant/accused submitted that the applicant/accused has been languishing in JC since 30.12.2024 and that he has been falsely implicated in the present matter as he has nothing to do with the alleged offences. Ld. Counsel further submitted that nothing incriminating has been recovered either from the possession of the applicant/accused or at his instance and even the material collected during the investigation itself does not suffice to establish that the applicant/accused was in conscious possession of the contraband and therefore, the rigorous of Section 37 of NDPS Act is not attracted. Ld. Counsel further submitted that the

applicant/accused was not named in the present case FIR and that the entire case against the applicant/accused rests solely on the basis of disclosure statement which is a weak piece of evidence and requires strong independent corroboration and that the same is inadmissible in law. Ld. Counsel further submitted that there is a violation of Article 22(1) of the Constitution of India as the law is very well settled by the Hon'ble Apex Court as well as Hon'ble High Court that the accused has to be informed about his grounds of arrest in writing, however, the grounds of arrest had not been furnished in writing to the accused. Ld. Counsel further submitted that in the present matter, investigation has already been completed and chargesheet has also been filed and therefore, no fruitful purpose would be served by keeping the applicant/accused behind the bars. Ld. Counsel further submitted that at the time of search and seizure proceedings, no photography or videography was done nor any public witness was joined by the IO. Ld. Counsel thus, submitted that the applicant/accused ought to be granted bail and he is ready to abide by all the terms and conditions imposed upon him while granting the bail. In support of his submissions, Ld. Counsel placed reliance on **Tanay Khatri vs. State of NCT of Delhi Bail Application No. 2517 of 2024**.

3. *Per contra* Ld. Addl. PP for the State along with IO vehemently opposed the bail application citing the gravity of the offence as one of the main grounds. Ld. Addl. PP submitted that applicant/accused is a part of drug nexus which sell narcotics drugs and that the drug menace is affecting the entire society and

especially it is targeting the younger generation and it affects the economy of the country and that illicit money is being used for drug trafficking which is a serious offence and the persons involved in the illicit drug trafficking are destroying the social fabric of society and leading youth to wrongful path. Ld. Addl. PP along with IO further submitted that in the present matter, commercial quantity of the contraband has been recovered. Ld. Addl. PP further submitted that in the present matter, prosecution witnesses are yet to be examined and therefore, if he is granted bail, he may flee from criminal justice system. Thus, the applicant/accused ought not to be granted bail.

4. I have heard the arguments addressed by the opposite parties and perused the record.

5. It is settled law that the Court, while considering the application for grant of bail, has to keep certain factors in mind, such as, whether there is a *prima facie* case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment, the danger of the accused absconding or fleeing if released on bail; reasonable apprehension of the witnesses being threatened; etc. However, at the same time, period of incarceration is also a relevant factor that is to be considered.

6. During further course of arguments, it was brought to the notice of this court that in the present matter, investigation has already been completed, the chargesheet has been filed and

charges have also been framed against the applicant/accused. So far as the recovery of the alleged contraband is of commercial nature i.e. 442 grams of 'heroin', however, the alleged recovery has not been effected from the possession of the present applicant/accused.

7. During the course of arguments, it was brought to the fore that during investigation, CDRs of the accused persons got analysed on which the present applicant/accused has been found in contact with the co-accused Amans Osaretin through calls and whatsapp calls just before the incident. Insofar as the CDRs are concerned, I may note that the evidentiary value of the same has to be seen at the stage of the trial. On this, I am supported by the judgment of the Supreme Court in **State (by NCB) Bengaluru vs. Pallulabid Ahmad Arimutta & Anr.: (2022) 12 SCC 633**, the relevant paragraph of which reads as under:-

"12. It has been held in clear terms in *Tofan Singh v. State of T.N.* [*Tofan Singh v. State of T.N.*, (2021) 4 SCC 1 : (2021) 2 SCC (Cri) 246], that a confessional statement recorded under Section 67 of the NDPS Act will remain inadmissible in the trial of an offence under the NDPS Act. In the teeth of the aforesaid decision, the arrests made by the petitioner NCB, on the basis of the confession/voluntary statements of the respondents or the co-accused under Section 67 of the NDPS Act, cannot form the basis for overturning the impugned orders [[Pallulabid Ahamad Arimutta v. State](#), 2019 SCC OnLine Kar 3516] , [*Mohd. Afzal v. Union of India*, 2020 SCC OnLine Kar 3433] , [*Munees Kavil Paramabath v. State*, 2020 SCC OnLine Kar 3431] , [*Abu Thahir v. State*, 2019 SCC OnLine Kar 3517] , [*Mohd. Afzal v. Union of India*, 2020 SCC OnLine Kar 1294] , [*Munees*

Kavil Parambath v. State of Karnataka, 2020 SCC OnLine Kar 3432] releasing them on bail. The CDR details of some of the accused or the allegations of tampering of evidence on the part of one of the respondents is an aspect that will be examined at the stage of trial. For the aforesaid reason, this Court is not inclined to interfere in the orders....."

8. Further, in the cited case of **Tanay Khatri (supra)** decided on 10.09.2024, the Hon'ble High Court observed as under:

"11.At this stage, there is no other evidence to show that the applicant is involved in any manner with the accused Sahil. Admittedly no recovery has been affected from the applicant and in such circumstances because the applicant was in touch with the co-accused the bar of Section 37 NDPS Act is not attracted. The Courts are not expected to accept every allegation made by the prosecution as a gospel truth."

9. It is also apposite to reproduce the relevant extract/para of the case of **Phundreimayum Yas Khan vs. State (NCT of Delhi): 2023 SCC OnLine Del 135**, where the Hon'ble High Court observed as under:

"Prosecution case was solely based on disclosure statement of co-accused which is per se not admissible without any corroboration. Case of prosecution that statement of accused lead to the discovery of other co-accused, i.e. alleged main supplier of contraband. No new fact was disclosed by accused regarding co-accused. Co-accused was neither found, nor arrested. Disclosure statement made under Section 67 of NDPS Act by accused cannot be read against him. Contraband of commercial quantity was not recovered from possession of accused. No monetary transactions, bank statement or finances that shows the sale/purchase of prohibited narcotic substance between accused

and co-accused. Mere existence of calls between accused and co-accused cannot be a ground to deny bail. Rigors of Section 37 of NDPS Act would not be applicable.”

10. In the aforementioned circumstances, taking into account the submissions and the fact that investigation is complete, chargesheet has already been filed and charges have also been framed and the fact that no recovery has been effected from the possession of the present applicant/accused or at his instance, and also, no previous involvement of applicant/accused has been reported by the IO in any other criminal case except the instant one and the fact that he has been in custody since 30.12.2024 and trial will take long time, I deem it fit to grant regular bail to accused Thompson Apiti @ Emeka, on his furnishing personal bond with surety bond of Rs. 50,000/- with one surety in the like amount, subject to following conditions:

i) The applicant/accused shall not leave the country without the prior permission of the court;

ii). The applicant shall provide her permanent address to the court. The applicant shall intimate the court by way of an affidavit and to the IO regarding any change in the residential address;

iii) The applicant shall appear before the court as and when the matter is taken up for hearing;

iv) The applicant shall also furnish his mobile numbers and mobile numbers of his surety to the IO concerned, which shall be kept in a working condition at all times and shall not be switched off or changed without prior intimation to the IO concerned.

v) The applicant shall not communicate with or come in contact with any of the prosecution witnesses or tamper with the evidence of the case while being released on bail.

11. Needless to say, the above-mentioned observations are predicated solely on the facts as alleged, and brought forth at this juncture, and are not findings on merits, and would also have no bearing on the merits of the case. With these conditions, and observations, the regular bail application stands disposed of.

12. In compliance of **Sanjay Singh Vs. State (Govt of N.C.T of Delhi) Writ Petition Criminal 974/2022**, copy of this order be sent to concerned Jail Superintendent to convey the order to inmate.

13. Copy of this order be given dasti.

**(Dr. TARUN SAHRAWAT)**  
**ASJ-04 + Spl. Judge (NDPS),**  
**South East District, Saket Court,**  
**New Delhi /17.03.2026**