

CNR No. DLWT01-005856/23
SC No.349/23
FIR No.671/23
P.S. Nihal Vihar
u/s 21/29 NDPS Act & 14 of Foreigners Act
State V/s Paras etc.

07.11.2023

File taken up today on an application u/s 439 Cr.P.C. filed on behalf of applicant/ accused Ndubuisi Michael seeking bail.

Present: Mr. Subhash Chauhan, Ld. Addl. PP for the State.
SI Sanjit Rathee on behalf of IO in person.
Mr. Rohan Gupta & Ms. Shilpa Dua, Ld. counsel for applicant/accused Ndubuisi.

SI Sanjit Rathee filed the reply to this bail application. It be taken on record. Application seen. Record perused.

Ld. counsel for applicant/accused submits that applicant is in JC since 18.05.2023 and he has been falsely implicated in this case. He further submits that the applicant was lifted from his house on the issue of Visa/ passport and taken to police station where he was forced to sign certain papers forcibly. He further submits that there is non-compliance of Section 50 of NDPS Act as well as Section 100 Cr.P.C. He also contended that the alleged recovered contraband falls under intermediate quantity and there is no bar u/s 37 of NDPS Act. He further submits that the chargesheet in this case has already been filed after conclusion of investigation. He further submits that all 18 PWs in this case are police officials and there is no chance of influencing them and further, the conclusion of trial will take a long time. He further submits that other three co-accused persons have already been granted bail in this case by this Court. He submits that the applicant is ready to abide by all terms and conditions of the bail to be imposed by the court. Finally, he prayed for grant of bail to the applicant/accused.

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On the other hand, Ld. Addl. PP for State has resisted the bail plea of accused on the ground that 44 Grams of Heroin was recovered from the conscious possession of applicant/accused and he being a Nigerian national was found in India without valid documents. He further submits that the case is at the initial stage where even the charge is yet to be framed. He further submits that the possibility of applicant/accused indulging in the same trade of drugs again cannot be ruled out completely, in case he is granted bail at this stage.

I have considered the rival submissions of both sides. Accordingly, without reflecting much on the merits of the case, which would be subject matter of coming trial and considering the matter in totality, the facts and circumstances of this case, period of custody as well as the fact that the alleged recovery of contraband from the applicants is of intermediate quantity and there is no bar u/s 37 of NDPS Act as well as the fact that other three co-accused persons have already been granted bail in this case, also the allegation of non-compliance of Section 50 of NDPS Act in its true letter and spirit, no criminal antecedent of the applicant/accused as well as the fact that the conclusion of investigation and trial will take a considerable period of time and the settled proposition of law that a foreign national does not has any lesser right to get enlarged on bail, if he is otherwise legally entitled for the same and his presence during trial before the Court is secured and Ld. defence counsel has assured the Court that the applicant will abide by all the terms and conditions of the bail, this Court is of the considered opinion that no fruitful purpose would be served by keeping the applicant/accused further

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in JC. Accordingly, the applicants/accused Ndubuisi is admitted to bail in this case subject to following conditions : -

1. The applicant/accused shall furnish personal bond in sum of ₹35,000/- with one local surety of the like amount;
2. He is directed to appear on each and every date of hearing and not to change his address and mobile number without prior intimation to the Court.
3. The applicant shall not leave the country and he is directed to surrender his passport as well as the details of his residential address where he would stay after his release from jail, along with the bail bonds.
4. The applicant shall not indulge in any criminal activity in future.
5. The applicant shall not communicate with or come into contact with any of the prosecution witnesses or tamper with the evidence in any manner.

Nothing stated hereinabove shall tantamount to any expression of opinion on the merits of the case.

A copy of this order be sent to the Jail Superintendent concerned for information to accused.

Put up for purpose fixed on the date already fixed i.e. 02.12.2023.

(RAKESH KUMAR RAMPURI)
ASJ/ SPECIAL JUDGE: (NDPS)
(WEST)DELHI/ 07.11.2023.