

SC No. 317/2018
FIR No. 213/2017
P.S. Crime Branch
U/s 21/29 of NDPS Act &
Sec. 14 of Foreigners Act.
State Vs. Hargovind Singh & Anr.

28.08.2018 (12.17 p.m.)

Present: Sh. Manoj Garg, Ld. Substitute Addl. PP for the State.

Both accused produced from JC.

Mr. Ajay Gaur, Ld. Counsel for accused Hargovind Singh.

Mr. Nitin Kumar, Ld. Counsel for accused Ikenna.

As jointly prayed for, fresh arguments on charge heard today from both sides present. Now to come up for order on charge as well as for framing of charge, if made out, on 14.09.2018.

At this stage, it is pointed out by Ld. Counsel for accused Ikenna that there is pending application of this accused dated 11.07.2018 seeking direction to Superintendent of Jail concerned to take this accused to Nigerian Embassy, New Delhi for issuance of his new passport mainly on the grounds that this accused lost his passport and NCR was got recorded to this effect on 03.07.2018 ; that this accused is in JC at present and needs new passport from Nigerian Embassy, New Delhi. Arguments on this application heard at this time from both sides and judicial file perused minutely for this purpose.

This accused prima facie involved in this serious case punishable under Sec. 21/29 of NDPS Act, for prima facie possessing commercial quantity of contraband i.e. 'heroin' as well as under Sec. 14 of Foreigners Act for allegedly/illegally staying in India without any valid passport/Visa and the offence U/s 21/29 of NDPS Act is punishable upto 20 years of imprisonment as well as upto fine to the extent Rs. 2 lacs, which, in peculiar/particular circumstances, may be even beyond Rs. 2 lacs and offence u/s 14 of Foreigners Act is punishable upto five years imprisonment. Admittedly, copies of Visa and passport of this accused, if having earlier, not filed with this application in order to prima facie satisfy this Court that he was having any valid passport or Visa earlier. Similarly, no other authentic document filed on record, qua his legal stay in India earlier. In these circumstances, in the considered opinion of this Court, no useful purpose would be served to give direction to Superintendent of Jail concerned at this stage to produce this accused before

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Nigerian Embassy at New Delhi for the purpose as mentioned in this application. In this application, it is not clearly mentioned as to what purpose would be solved, qua this accused, by way of filing of this application, at this stage, where even charge not yet framed against this accused and the matter is still at initial stage and more so when he was prima facie found over staying/illegally staying in India earlier at the relevant time due to which he has also been booked for offence under Sec. 14 of Foreigners Act. In the given facts and circumstances of this case, there is possibility of misuse of passport by and on behalf of this accused, if issued a new one at this stage. I have also come to know that such like accused, when becomes free from the case, as per law, is deported out of India to his/her native place/country, through office of FRRO, New Delhi at government expenses and for this reason also, the accused herein need not bother for new passport at his own efforts which he can have in his own country, as per law, as and when he becomes free from this case and is deported out of India, as per law, through FRRO office, New Delhi and if so desired by him at that time. For these reasons, this application appears to be devoid of any merits at this stage and it appears to have been filed just to consume valuable time of this Court in deciding this meritless type of application at this stage. Consequently, this application is dismissed with cost of Rs. 5,000/-(five thousand) to be deposited, by and on behalf of this accused, with DLSA, West District, Tis Hazari Courts, Delhi, within 15 days from today, and receipt of the same to be submitted before this Court on next due date i.e., 14.09.2018. As already mentioned, this cost has been imposed upon this accused, qua this application, as it has resulted into wastage of valuable time of this Court in deciding this meritless type of application at this stage. It is also made clear that if this cost is not paid by and on behalf of this accused, as directed above, the same may be got recovered from this accused as per law and it is also made clear that if this cost is not paid, within time given, no further application on behalf of this accused would be entertained in this matter by this Court. Hence, this application decided in view of this order. Anything written here need not be treated to affect further proceedings of this case on merits in future. With this order, now to come up on due date i.e., 14.09.2018 for the purpose already fixed.

(Dr. SHAHABUDDIN)

ASJ/Special Judge (NDPS)(West) Delhi/28.08.2018