

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 & Ikenna Okoye

18.01.2019 (02.27 p.m.)

Present: Ms. Shubhra Goyal, Ld. Addl. PP for the State.

Ld. Counsel, Mr. Deepak Ghai for applicant/accused Ikenna Okoye(in short accused), qua his pending interim bail application u/s 439 Cr.P.C dated 15.01.2019, seeking his interim bail for period of two months filed mainly on the ground that wife of this accused is suffering from serious disease and doctor concerned has advised to her for operation in near future ; that since this accused has been charged for intermediate quality, there is no bar of Sec. 37 of NDPS Act qua the present matter.

Reply has already been filed to this bail application by the IO concerned in which it has been submitted mainly to the effect that this accused is foreigner and had arrived in India on 31.07.2012 on medical Visa for a period of one month but after expiry of such period, he did not return to his country and that marriage certificate of this accused and Ms. Aziza could not be verified due to foreign nationals and that this accused, considering the gravity of offences involved in this matter, is likely to jump the bail and thereby to further delay the trial of this case on merits.

Fresh arguments on this application heard at this time also from both sides, as jointly prayed for. File perused minutely for this purpose.

In the considered opinion of this Court, this accused prima facie involved in this serious case punishable under Sec. 21/29 of NDPS Act, for prima facie possessing intermediate 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

Contd...

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. In the considered view of this Court, no prima facie authentic proof has been filed with this application to prima facie satisfy this Court that Ms. Aziza is really the legally wedded wife of this accused. Further, no prima facie authentic proof filed with this application to prima facie satisfy this Court that there is no one to attend Ms. Aziza for her alleged sickness, except this accused. This case is at initial stage in which no prosecution evidence(PE) at all recorded so far. In the further considered view of this Court, this accused may abscond from justice and may influence the prosecution case/witnesses adversely and may again involve in commission of this type of crime, if released on bail at this stage. For these reasons, I am not inclined to grant bail to this accused at this stage and this bail application is hereby dismissed. Anything written here need not be treated to affect further proceedings of this case on merits. As prayed for, copy of this order be given dasti to Ld. Counsel for accused as well as to State. One copy of this order be also sent to Superintendent of Jail concerned for information.

With this order, now to come up on due date i.e., 15.02.2019 for purpose fixed.

(Dr. SHAHABUDDIN)
ASJ/Special Judge (NDPS)
(West) Delhi/18.01.2019