

IA 3/2026 SC 13/2026

FIR No. 181/2025

PS Crime Branch

Under Sections 8/22/29 NDPS Act & Section 14 Foreigners Act

State Versus Chikwado Nnake Kingsley

05.06.2026

Present: Sh. Rajesh Kumar, Ld. Substitute Addl. PP for the State.

Sh. Vikas Gautam, Ld. counsel for applicant/accused.

Vide my separate order of even date, the application filed on behalf of the applicant/accused Chikwado Nnake Kingsley, seeking grant of regular bail is allowed 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/05.06.2026

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

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ORDER

1. Vide this order, I shall decide the second application moved on behalf of applicant/accused Chikwado Nnake Kingsley under Section 483 BNSS, 2023 seeking regular bail in the present case.

2. It is submitted by Ld. Counsel for applicant/accused and affirmed by the IO 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. The case of the prosecution, in brief, is that on 19.07.2025, secret information was received that one Suhail, wanted in certain NDPS cases of District Kannur Police, was hiding in the area of Vasant Kunj, Delhi. Acting upon the said information, a raid was conducted at a Bed and Breakfast facility, namely ACE STAYZ, situated at D-28, Harijan Basti, Vasant Kunj, Delhi.

Upon raid in Room No.403, situated on the 4th floor of the said premises, two accused persons namely Suhail and Sujin were found present. After proceedings under the NDPS Act, about 4 kg Methamphetamine/Amphetamine was allegedly recovered from the possession of accused Suhail and about 2 kg Methamphetamine/Amphetamine was allegedly recovered from the possession of accused Sujin. Both the said accused were arrested on 20.07.2025.

4. It is further the case of the prosecution that during interrogation, both the said accused disclosed that they were part of an interstate drug supply network and had procured the recovered contraband from one African national in the area of Chhatarpur, Delhi. Thereafter, on 23.07.2025, during police custody remand, a raid was conducted in Mohan Garden, Delhi and, at the instance of accused Suhail, one Nigerian national namely Tobi Nwoyeke @ Deco was apprehended, from whose possession about 64 grams of Methamphetamine/Amphetamine was recovered. Thereafter, on 25.07.2025, at the instance of accused Tobi @ Deco, about 854.5 grams of Methamphetamine/Amphetamine was recovered from his rented premises in the area of Chhatarpur.

5. As per the prosecution, accused Tobi @ Deco disclosed that he had supplied about 6 kg drugs to Suhail and Sujin and that the said contraband had been procured by him from one African person namely Ogo @ Obichi. It is further alleged that during subsequent police custody remand, accused Tobi disclosed that

Ogo, using Facebook identity “Chidon Obichi”, along with his associates including the present applicant Chikwado, used to sell Methamphetamine/Amphetamine and MDMA in huge quantities. It is also alleged that on 31.08.2025, on the basis of disclosure of accused Tobi and technical investigation, a raid was conducted at Flat No.502, Tower-B, Sanskriti Apartments, Sector-1, Greater Noida, U.P., from where the present applicant was apprehended and was identified by accused Tobi as an associate of Ogo.

6. It is not disputed that no contraband was recovered from the personal search of the present applicant. It is also not the case of the prosecution that any contraband was recovered from the premises of the applicant or at his instance. The prosecution, however, relies upon the alleged disclosure of co-accused Tobi @ Deco, the identification of the present applicant by Tobi @ Deco, the alleged disclosure statement of the present applicant and the alleged recovery of certain photographs of contraband and screenshots of suspicious transactions from the mobile phone of the applicant.

7. The first bail application of the present applicant was dismissed by this Court vide order dated 02.04.2026. The earlier order shows that bail was declined at that stage mainly by observing that the investigation regarding source supplier Ogo @ Obichi and other members of the alleged syndicate was still in progress, the financial transactions and network of the syndicate were still under investigation, and release of the applicant at that stage could hamper further investigation. The present application

is stated to have been moved on account of change of circumstances.

8. Learned counsel for the applicant has argued that since dismissal of the earlier application, there is a material change in circumstances, as the investigation is now complete and the chargesheet as well as supplementary chargesheet have already been filed. It is submitted that the earlier apprehension that release of the applicant may hamper further investigation has substantially lost force. It is argued that the applicant is in judicial custody since 01.09.2025 and no purpose would be served by keeping him in further custody when no direct recovery has been effected from him.

9. Learned counsel for the applicant has further argued that the recovery made from other accused persons cannot be mechanically clubbed against the present applicant. Reliance has been placed upon the judgment of the Hon'ble High Court of Delhi in *Jaipal v. State*, Bail Application No. 3729/2024, decided on 09.01.2025 to submit that, at the stage of bail, the Court has to see whether there is prima facie material to connect the accused with the alleged conspiracy before the recovery from co-accused can be read against him. It is submitted that in the present case, there is no recovery from the applicant, no recovery at his instance and no material to show that the contraband recovered from Suhail, Sujin or Tobi was ever supplied by the present applicant.

10. Learned counsel for the applicant has further argued that the photographs allegedly recovered from the phone of the applicant cannot be treated as sufficient material to deny bail. It is submitted that the last such photograph is about three months prior to the date of the first recovery in the present case and, therefore, the said photographs do not connect the applicant with the alleged recovery made in July 2025. It is also argued that the source/sender of the said photographs has not been examined and there is no FSL proof to show that the said photographs were in fact of any narcotic drug or psychotropic substance.

11. It is further submitted that there is no transcript, no CDR, no WhatsApp call, no intercepted conversation and no electronic communication to show that the applicant was involved in the alleged offence. It is also argued that no mobile number or account detail of Anuj Kumar (alleged to be instrumental in transferring money related to drug sales) was ever forwarded from the phone of the applicant. Learned counsel submits that even as per the prosecution, the financial investigation, if any, is pending only qua Anuj Kumar and no financial trail has been shown to connect the present applicant with the alleged contraband or with the co-accused persons. It is further submitted that the applicant is ready to abide by any stringent condition which may be imposed by the Court.

12. Per contra, learned Additional PP for the State has opposed the application. It is submitted that the offence is grave in nature and the case involves recovery of huge commercial quantity of

Methamphetamine/Amphetamine from the co-accused persons. It is argued that the applicant is not a mere bystander but is alleged to be associated with the source supplier Ogo @ Obichi. It is further submitted that the mobile phone of the applicant contained photographs of contraband and suspicious transaction screenshots. Learned Additional PP has also submitted that FSL analysis of the mobile phone of the applicant is still pending.

13. However, during the course of arguments, learned Additional PP has fairly conceded that, at this stage, the material against the present applicant is the disclosure statement of co-accused persons made in custody and the photographs of alleged contraband recovered from the phone of the applicant. Learned Additional PP has also not disputed that no contraband has been recovered from the applicant, from his premises or at his instance. It has also not been disputed that the last photograph relied upon by the prosecution is about three months prior to the date of the first recovery made in the present case.

14. I have heard the rival submissions and have perused the record.

15. There is no doubt that the present case relates to serious allegations under the NDPS Act and the total recovery from the co-accused persons is of commercial quantity. Therefore, the rigours of Section 37 of the NDPS Act have to be kept in mind. At the same time, the Court is required to examine the role attributed to the particular applicant and the material available

against him. The satisfaction under Section 37 is not to be recorded mechanically merely because the case as a whole involves commercial quantity. The Court has to see whether reasonable grounds exist for believing that the applicant is not guilty and whether he is likely to commit any offence while on bail.

16. In the present case, admittedly, there is no recovery of any narcotic drug or psychotropic substance from the applicant. There is also no recovery from his premises or at his instance. The recovery of contraband is from Suhail, Sujin and Tobi. The prosecution seeks to connect the present applicant with the said recovery on the basis of disclosure of Tobi, identification by Tobi, alleged disclosure of the applicant and certain photographs/suspicious screenshots allegedly found in his mobile phone.

17. The disclosure statement of a co-accused, by itself, is a weak piece of material at the stage of bail, unless supported by independent incriminating circumstances. In the present case, the disclosure of Tobi has not led to recovery of any contraband from the applicant or from any place connected with him. The alleged disclosure of the applicant also has not led to any discovery of incriminating material. The admissibility and evidentiary value of such disclosure statements will be tested during trial. At this stage, such disclosure statements, standing substantially alone, do not appear sufficient to justify continued incarceration of the applicant.

18. Coming to the photographs allegedly recovered from the phone of the applicant, the said material may create suspicion. However, suspicion, however strong, cannot by itself substitute the requirement of reasonable grounds under Section 37 NDPS Act. It is not disputed that the last such photograph is about four months prior to the first recovery made in the present case. The source/sender of such photographs has not been examined. There is no FSL report shown to the Court at this stage to establish that the said photographs were in fact photographs of narcotic drug or psychotropic substance. There is also no material to show that the said photographs correspond to the contraband recovered from the co-accused persons in the present FIR.

19. It is also significant that the prosecution has not shown any CDR, WhatsApp chat, WhatsApp call, intercepted conversation, transcript, voice matching report or other electronic communication between the applicant and the arrested co-accused persons to indicate his participation in the transaction leading to the present recovery. No financial transaction has been shown from the applicant to any co-accused or vice versa. It is also not shown that any account detail of Anuj Kumar was forwarded from the phone of the applicant to any co-accused. In such circumstances, the alleged financial trail also does not, at this stage, connect the applicant with the recovered contraband.

20. The earlier bail application of the applicant was dismissed mainly on the ground that investigation regarding source supplier Ogo @ Obichi, other members of the syndicate, financial

transactions and drug network was still in progress. Be that as it may, the present application stands on a different footing. The chargesheet has been filed. Supplementary chargesheet qua FSL result has also been filed. Custodial interrogation of the applicant is over. The material which is now pressed against the applicant has substantially crystallized. The prosecution cannot seek indefinite incarceration of the applicant merely on the ground that some further aspect of investigation, such as FSL analysis of mobile phone, may still be pending, particularly when no direct recovery has been made from him.

21. The argument regarding clubbing of recovery also requires consideration. It is true that in a case of conspiracy under Section 29 of the NDPS Act, recovery from one accused may, in a given case, be relevant against another conspirator if there is sufficient material to show common design, prior meeting of minds or active participation in the transaction. However, the concept of clubbing cannot be applied mechanically. There must be prima facie material connecting the applicant with the recovery made from the co-accused. The judgment in *Jaipal (Supra)* supports the proposition that whether recovery from co-accused can be read against a person on the basis of conspiracy would require proof and cannot be presumed at the stage of bail in the absence of connecting material. In the present case, apart from disclosure statements and old photographs allegedly found in the phone of the applicant, no such direct connecting material has been shown.

22. The judgment in *Chhalimuddin v. State*, 2025:DHC:2162,

also reiterates that where recovery from each accused is distinct, the quantity recovered from different accused persons cannot be clubbed merely to attract the rigours of Section 37. Though the present applicant is facing allegations under Section 29 NDPS Act and the case is not simply of individual recovery, the broader principle remains that the Court must examine the specific material against the particular accused and cannot deny bail only because commercial quantity has been recovered from some other accused person.

23. Learned Additional PP has expressed apprehension that the applicant is a foreign national and may abscond. This apprehension cannot be treated lightly. The applicant is also facing an allegation under Section 14 of the Foreigners Act. However, the said concern can be addressed by imposing strict conditions.

24. At this stage, considering that no contraband has been recovered from the applicant, no recovery has been made at his instance, the material against him is essentially disclosure statements of co-accused and old photographs allegedly found in his mobile phone, there is no demonstrated CDR/WhatsApp call/transcript/financial trail linking him with the present recovery, and the investigation qua him is substantially complete, this Court is satisfied, for the limited purpose of bail, that there are reasonable grounds for believing that the applicant is not guilty of the offence alleged against him. Furthermore, nothing has been shown indicating any previous criminal involvement of

the applicant. Therefore, the Court is of a view that the applicant has been able to overcome the embargo provided u/s 37 NDPS Act.

25. Accordingly, the application is allowed. Applicant/accused Chikwado Nnake Kingsley is admitted to regular bail on furnishing personal bond in the sum of Rs.1,00,000/- with two sureties in the like amount, preferably one surety being an Indian national/local surety, to the satisfaction of the Court/ Ld. Duty Judge/Ld. Link Court, subject to the following conditions:

- i. The applicant shall not leave Delhi-NCR without prior permission of the Court.
- ii. The applicant shall furnish his complete residential address to the IO as well as to the Court at the time of furnishing bail bonds and shall not change the same without prior intimation to the Court and IO.
- iii. The applicant shall furnish his mobile number to the IO and shall keep the same active and operational at all times. He shall share his live location with the IO as and when directed.
- iv. The applicant shall appear before the Court on each and every date of hearing, unless exempted by a specific order.
- v. The applicant shall report to the IO/SHO concerned once every week, on every Monday between 10:00 AM and 12:00 noon, for a period of three months from the date of his release and thereafter on the first Monday of every month, till further orders.
- vi. The applicant shall not contact, visit, threaten, induce or influence any prosecution witness or any person acquainted with

the facts of the case.

vii. The applicant shall not tamper with evidence or indulge in any activity which may prejudice the trial.

viii. The applicant shall not directly or indirectly contact co-accused Ogo @ Obichi or any other absconding/suspected accused in the present case.

ix. The applicant shall surrender his passport before the Court, if not already seized/deposited. In case the passport is already seized by the IO, the IO shall file a report to that effect before the Court.

x. The applicant shall appear before the FRRO/competent foreigner registration authority as and when directed and shall comply with all requirements under the Foreigners Act and applicable rules.

xi. The applicant shall, within two months from the date of his release, furnish before the Court all documents relating to his immigration status, including passport, visa, residence permit, FRRO registration/acknowledgement, application for renewal/extension/regularisation of visa/permit, if any, and proof of steps taken by him in that regard. The applicant shall thereafter continue to keep the Court informed about any further development in respect of his immigration status. Failure to comply with this condition, without sufficient cause, shall entitle the State to seek cancellation of bail.

xii. In case of violation of any condition, the State shall be at liberty to seek cancellation of bail.

26. It is clarified that grant of bail in the present case shall not,

by itself, prevent the competent authority/FRRO from taking any action strictly in accordance with law in relation to the applicant's visa/immigration status. However, the applicant shall not be kept in custody in the present FIR after furnishing bail bonds, unless required in any other case or under any lawful order passed by a competent authority.

27. Nothing stated herein shall be treated as an expression on the merits of the case. The observations made herein are only for deciding the present bail application.

28. Application stands disposed of accordingly. Copy of this order be given dasti and be also sent to the Jail Superintendent concerned for information and necessary compliance.

(Jitendra Pratap Singh)
ASJ NDPS Act
(Special Judge)/PHC
NDD/05.06.2026