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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 06.08.2026*# **CNR No. DLHC010357042026**+ **BAIL APPLN. 3146/2026 & CRL.M.A. 23714/2026**

KOUAME FAUSTIN KOUMANPetitioner

Through: Mr. Javed Khan, Advocate

versus

CUSTOMSRespondent

Through: Mr. Gibran Naushad, SSC with Mr.
Suraj Shekhar Singh, Advocate**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in File/C.No. VIII(AP)(10)P&I/3442-DArrival/2022 of PS IGI Airport for offence under Section 8/21/23/28 of NDPS Act.

2. Broadly speaking, allegation against the accused/applicant is that he was apprehended at the IGI Airport after which 86 capsules containing 1539 grams heroin and 172 grams cocaine were excreted out of his body.

3. Learned counsel for accused/applicant submits that he is in custody for past four years and no purpose would be served by keeping him in jail.



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Further, it is contended that initially, on 21.04.2022 at the airport itself 21 capsules were excreted out of his body and thereafter he was taken to hospital where till 25.04.2022, more capsules were excreted out of his body, therefore, custody of the accused/applicant from 21.04.2022 till 25.04.2022 was illegal. It is submitted by learned counsel that the last capsule excreted out of body of the accused/applicant was on 22.04.2022.

4. Learned counsel for respondent Customs accepts notice and strongly opposes the bail application on the ground that the quantity of contraband recovered from the accused/applicant was admittedly commercial quantity, so the twin conditions under Section 37 NDPS Act have to be satisfied. As regards the custody from 21.04.2022 to 25.04.2022, it is contended that the same was with consent of the accused/applicant for medical reasons. As regards the period from 22.04.2022 to 25.04.2022, it is contended by prosecution side that the accused/applicant was discharged from hospital only on 25.04.2022 as per medical record. Therefore, according to the legal position, this cannot be a ground to grant bail to the accused/applicant.

5. As mentioned above, according to prosecution case, from body of the accused/applicant, 86 capsules containing 1539 grams heroin and 172 grams cocaine were recovered. Admittedly, the contraband allegedly recovered is a commercial quantity.

6. Merely because immediately after excretion of 21 capsules at airport the accused/applicant was not produced before the magistrate, keeping in mind the explanation that the accused/applicant himself consented to be



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taken to hospital for medical reasons and in the hospital, the remaining 65 capsules were excreted out, it cannot be treated as illegal custody.

7. The Court cannot ignore that the evil effect of drug peddling is not just to intoxicate the consumers thereof. A major part of the terrorism funding comes out of drug peddling. The courts have to be conscious of the ground realities in which such criminals are apprehended and are taken through the process. The procedural lapses even if any, cannot be allowed to make inroads into the twin conditions laid down under Section 37 NDPS Act, otherwise the whole purpose of insertion of this unique provision of reverse burden would get demolished.

8. Considering the above circumstances, I do not find it fit case to grant bail, therefore, the bail application and the accompanying application are dismissed.

**GIRISH KATHPALIA
(JUDGE)**

AUGUST 06, 2026/as