



2025:DHC:6820



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 13.08.2025

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BAIL APPLN. 864/2025, CRL.M.A. 6414/2025 & CRL.M.A. 6415/2025

PETER NWALUE

.....Petitioner

Through: Mr. Meghan, Mr. Mohd. Javed and
Mr. Akash Kumar, Advocates.

versus

STATE OF NCT OF DELHI

.....Respondent

Through: Mr. Nawal Kishore Jha, APP for State
with SI Sapna, PS Chhawla.**CORAM: JUSTICE GIRISH KATHPALIA****J U D G M E N T (ORAL)**

1. The accused/applicant seeks regular bail in case FIR No. 06/2023 of PS Mohan Garden for offence under Section 21 NDPS Act. I have heard learned counsel for accused/applicant and learned APP for State assisted by IO/SI Sapna.

2. Broadly speaking, prosecution case is that on 04.01.2023, at about 05:00pm, a specific secret information was received by the IO to the effect that at about 06:30pm an African national named Peter (*accused/applicant*) would reach near Purna Properties and Building Material Supplier at Poswal Crossing, 55 Foota Road, Vipin Garden, Mohan Garden, New Delhi, to



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supply heroin. After necessary procedural steps and recording the information vide DD No.12 and obtaining necessary permissions, a raiding team was constituted. At the informed spot and time, the accused/applicant was apprehended by the raiding team, and 602 grams of heroin was recovered from him. The quantity of the allegedly recovered contraband is admittedly commercial quantity, so rigors of Section 37 NDPS Act come into play.

3. Learned counsel for accused/applicant has raised only four grounds in support of this bail application. Firstly, it is contended that the seizure memo is a fabricated document because it bears FIR number, though it was prepared prior to the registration of FIR. Secondly, it is contended that no public witness was joined by the IO in the process of the alleged recovery. Thirdly, it is contended that no videography or photography of the recovery proceedings was carried out. Lastly, it is contended that delay in trial is a ground, which makes inroads into the rigors of Section 37 NDPS Act.

4. On the other hand, learned APP for State contends that all these grounds as raised in support of bail application can be considered only at the stage of final arguments of trial and not at the present stage. It is also contended on behalf of State that the quantity of the recovered contraband is almost three times the commercial quantity.

5. So far as the ground of presence of FIR number on the seizure memo is concerned, a perusal of the seizure memo shows that the same is a computer printout, which is explained by the IO, pointing out that the



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raiding team had carried along a laptop and portable printer after making necessary entries in record. The seizure memo bears the DD No.15 with date and place. Above the DD No.15, are the printed words “Case FIR No.” and that follows the handwritten number “06/23”. It is explained by the IO that along with *rukka*, the seizure memo sent to the police station did not bear the handwritten FIR number and the same was subsequently filled in by the SHO just for record. Going by this explanation, in the backdrop of rigors of Section 37 NDPS Act, at this stage the accused/applicant does not deserve any advantage, though this might be one of the arguments at the stage of appreciation of entire evidence during final arguments. On the basis of this aspect, I do not find a reasonable ground to satisfy myself into believing that the accused/applicant is not guilty of the alleged offence. As mentioned above, the quantity of heroin recovered is about three times the commercial quantity and it is not possible to believe that the same was planted.

6. So far as the ground related to non-joining of public witnesses is concerned, as recorded in the FIR itself, despite efforts, the IO could not find any public person agreeable to join the raid and spending further time on this effort would have given opportunity to the accused/applicant to slip away. It is not a case where no effort at all was done by the IO to join public persons in the raid. Further, it is a common experience that no public person wants to be a witness to any investigation proceedings. For that, there are multiple systemic reasons. Even this argument would not make inroads into the rigors of Section 37 NDPS Act.

7. Similarly, even failure to carry out photography or videography of the



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recovery proceedings would in itself not be a reason to trash the otherwise *prima facie* reliable recovery proceedings in the light of the rigors of Section 37 NDPS Act.

8. Lastly, on the ground of delay in trial, the accused/applicant ought to have placed on record ordersheets of the trial court to show as to whether there is a delay in trial and if so, on account of whose neglect. There is no such material on record.

9. Considering the above circumstances, I am not satisfied that there are reasonable grounds for believing that the accused/applicant is not guilty of the offence alleged against him or that he is not likely to commit any offence while on bail.

10. Therefore, the bail application is dismissed. The pending applications stand disposed of. Copy of this order be sent to the concerned Jail Superintendent forthwith for being communicated to the accused/applicant.

**GIRISH KATHPALIA
(JUDGE)**

AUGUST 13, 2025/ry