



2026:DHC:3383



\$~1

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

%

Date of Decision: 23.04.2026

+ **BAIL APPLN. 789/2026**

CHIMAKA PROMISE UDENNA@ ANGELPetitioner

Through: Mr. S.S. Aggarwal, Advocate

versus

NCBRespondent

Through: Mr. Arun Khatri, SSC with Ms.
Shelly Dixit, Advocate

CORAM: JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)

1. The accused/applicant, a Nigerian national, seeks regular bail in case Crime No. VIII/66/DZU/2022 for offence under Section 21/23/29 NDPS Act. After last date, status report was filed by NCB. I have heard learned counsel for both sides and examined the record.

2. Broadly speaking, the prosecution case is as follows. On 04.09.2022, under the directions of the Director General, NCB, a raiding team was constituted by the Investigating Officer, who after making the necessary procedural compliances reached the IGI Airport at about 09:40am and was



2026:DHC:3383



informed by the Immigration Officer that Kamalden, a Singaporean National, had been detained under a Lookout Circular issued against him. After necessary formalities, custody of Kamalden was handed over to the IO, who introduced himself and the raiding team to Kamalden and informed him about the entire operation in English. On opening the bags carried by Kamalden, the same were found to contain packets of heroin weighing 19.867 grams. All recovered contraband items were sealed and seized. Thereafter, the NCB team proceeded to a hotel in Dwarka, where they conducted further controlled delivery operation on the basis of information provided by Kamalden. At the hotel, the present accused/applicant came for taking delivery of the contraband and she paid USD 1000 to Kamalden in exchange of the contraband, which in fact was a dummy suitcase/bag handed over to her. At that moment, the NCB team intercepted the accused/applicant and informed her about their identity.

3. This is third bail application of the accused/applicant. The second bail application of the accused/applicant was dismissed as withdrawn vide order dated 24.07.2025.

4. On behalf of accused/applicant, it is contended that the arrest of the accused/applicant was illegal because she was not produced before the Special Judge, NDPS or any Magistrate within 24 hours of being apprehended. It is explained by counsel that the accused/applicant was apprehended at 09:10pm on 04.09.2022 but she was produced before the Special Judge, NDPS on 06.09.2022 only. Learned counsel for accused/applicant places reliance on the judgment of the Hon'ble Supreme



2026:DHC:3383



Court in the case of *Directorate of Enforcement vs Subhash Sharma*, 2025 INSC 141 in this regard, contending that the period of 24 hours to produce the accused before the Magistrate has to commence from the time when the accused is apprehended and not from the time when he is formally arrested. Further, it is contended that the WhatsApp chats relied upon by NCB do not reflect any complicity of the accused/applicant in the alleged offence. No other ground has been raised.

5. Learned counsel for NCB strongly opposes the bail application on the ground that after the previous bail application dismissal dated 24.07.2025, there is no fresh ground to claim bail. As regards legality of the arrest, learned counsel for NCB has taken me through record and it is contended that prior to arrest, the accused/applicant was issued notice under Section 67 NDPS Act, calling her upon to join inquiry. Further, it is contended by learned counsel for NCB that the challenge to the arrest was not made by the accused/applicant at the first possible opportunity when NCB was granted her custody by the Special Judge, therefore, such ground cannot be raised now. As regards the WhatsApp chats, learned counsel for NCB has produced before me printouts of the same (*copies supplied to counsel for accused/applicant*) and I have been taken through the same. Those chats are between the handler namely, Steven Vilkins and Kamalden in which the latter was being directed step by step to contact the present accused/applicant and handover the contraband to her after collecting money. Not just the specific room number of the hotel was conveyed to Kamalden in those chats but even there were other directions including



2026:DHC:3383



direction to handover to the present accused/applicant only one of the bags.

6. It is not in dispute that the quantity of the allegedly recovered contraband was commercial quantity, so twin conditions of Section 37 NDPS Act would come into play.

7. As regards the legality of arrest, of course, at the time of being produced before the Special Judge NDPS for the first time after arrest, the present accused/applicant did not make even a whisper challenging the legality of arrest. Even in the earlier bail applications, the accused/applicant never raised any challenge to the legality of her arrest. Despite that, in my view, the issue of legality of arrest because of its very nature should be allowed to be raised at any stage.

8. I have examined the record while analysing the legality of arrest. It would be incorrect to say that the accused/applicant should have been produced before the Special Judge NDPS or the Magistrate within 24 hours of 09:10pm of 04.09.2022. For, at that time she was not even detained, much less arrested. As regards the judgment in the case of ***Subhash Sharma*** (supra), I was offered assistance by learned counsel for Directorate of Enforcement sitting in the courtroom, awaiting his matter. Learned counsel for Directorate of Enforcement pointed out that in ***Subhash Sharma*** (supra), where he represented Directorate of Enforcement the circumstances were peculiar in the sense that Subhash Sharma was detained under LoC instantly at the Delhi Airport and taken to Raipur and no notice to join inquiry or investigation had been issued to him at Delhi. This aspect is



2026:DHC:3383



recorded in paragraph 4 of the judgment of the Hon'ble Supreme Court in ***Subhash Sharma*** (supra). In contrast, in the present case, the accused/applicant was served with a notice dated 04.09.2022 under Section 67 NDPS Act, calling her upon to join inquiry connected with the case. Copy of the said notice under Section 67 NDPS Act is at page 86 of the paperbook. In other words, the accused/applicant was not arrested or even detained on 04.09.2022 as alleged. The accused/applicant was arrested on 05.09.2022 at 05:50pm and the arrest memo (*page 89 of the paperbook*) bears endorsement under signatures of the accused/applicant that she was briefed about reasons of her arrest and her brother also was informed about the arrest. As per the arrest memo, statement of the accused/applicant was recorded under Section 67 NDPS Act on 05.09.2022. Admittedly, the accused/applicant was produced before the Special Judge, NDPS on 06.09.2022. That being so, the argument regarding legality of arrest fails.

9. I am unable to find any material that would satisfy the Court that there are reasonable grounds for believing that the accused/applicant is not guilty of the offence alleged against her. Therefore, the bail application is dismissed.

10. Copy of this order be immediately transmitted to the Jail Superintendent for being informed to the accused/applicant.

**GIRISH KATHPALIA
(JUDGE)**

APRIL 23, 2026/as

BAIL APPLN. 789/2026

Page 5 of 5 pages