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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
 % *Date of decision: 21st July, 2025*

+ **BAIL APPLN. 1448/2025**

SAMUAL AKINWUMI

S/o Akindele,

R/o WZ-47A, Ground Floor, Gali No.1,

Krishna Puri, Tilak Nagar, Delhi.

.....Petitioner

Through: Mr. S.S. Aggarwal, Mr. Rohan Singh,
 Advocates.

versus

STATE

Through SHO

PS Crime Branch West Delhi

.....Respondent

Through: Mr. Utkarsh, APP for the State with
 ASI Mahesh Kumar, Crime Branch.

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+ **BAIL APPLN. 1459/2025**

EMMANUEL

S/o Okeke,

R/o WZ-44/5, Gali No. 12, 1st Floor,

Krishna Puri, Tilak Nagar, Delhi.

.....Petitioner

Through: Mr. S.S. Aggarwal, Mr. Rohan Singh,
 Advocates.

versus

STATE

Through SHO,

PS Crime Branch West Delhi

.....Respondent

Through: Mr. Utkarsh, APP for the State with
 ASI Mahesh Kumar, Crime Branch.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA



J U D G M E N T (oral)

1. First Bail Applications under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (*hereinafter referred to as 'BNSS'*) read with Section 439 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as 'Cr.PC'*) has been filed on behalf of the Accused/Petitioners, Samuel Akinwumi and Emmanuel, for grant of Regular Bail in FIR No. 273/2022 dated 23.11.2022 under Section 21/22/25/29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (*hereinafter referred to as 'NDPS Act'*), Section 466/474 of Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*) and Section 14 of Foreigners Act registered at Police Station Crime Branch, West.
2. It is submitted that these are the First Regular Bail Applications filed in this Court. The earlier Bail Application filed before the learned ASJ, has been dismissed *vide* Order dated 01.04.2025.
3. It is submitted that the Applicants are in judicial custody since 23.11.2022. The Charge-Sheet in the aforesaid FIRs already stands filed and the Applicants are no longer required for investigations. The matters are presently at the stage of Prosecution evidence.
4. It is further submitted that as per the Prosecution, on 22.11.2022 at around 06:50 PM, ASI Rajbir Singh at AGS Crime Branch, got an information that a Nigerian man i.e. Samuel Akinwumi @ Prince/Applicant, who lives in Krishna Puri, Tilak Nagar, Delhi along with his trusted Nigerian associates/other individuals, is involved in the illegal supply of Cocaine, MDMA and other narcotic substances in wholesale quantities



across Delhi, NCR. Further information was received from the informant that on 22.11.2022, the Applicant would deliver a consignment of MDMA and Cocaine to one of his Associates near Pastry Palace, Krishna Puri, Tilak Nagar, Delhi, between 08:30 PM and 09:30 PM. Consequently, raiding team was constituted. At around 09:30 p.m., the Applicant Samual came on his black scooter from the direction of Pastry Palace. He stopped at a distance of 10 to 15 meters from the Raiding party and appeared to be waiting for someone. After about 10-15 minutes, another Nigerian, whose name was later found to be Emmanuel, approached him on foot. Then Samual took out a plastic packet from the pocket of his pyjama and handed it over to the co-accused Emmanuel, who kept it in his pocket. After this exchange, both men started to leave. On noticing the raiding team approaching, both the Applicants panicked and started to flee.

5. Emmanuel took out the transparent plastic packet from his jacket and threw it on the road. After some struggle, the raiding team was able to apprehend both Emmanuel and the Samual. After following due procedure and giving a Notice under Section 50 NDPS Act, SI Naveen checked the transparent plastic packet thrown by the co-Applicant, Emmanuel. The packet was sealed with a yellow and white rubber band. Upon opening, it was found to contain two smaller white packets. The larger white packet was sealed with a yellow and white rubber band. On opening, it was found to contain white and off-white crystal and powder-like substances, which on the basis of the appearance and physical properties, appeared to be MDMA. Its total weight was found to be 55 grams.

6. From the smaller packet, a white powdery substance was found,



which was indentified to be Cocaine and weighed 20 grams. After following due procedure, those two packets were seized.

7. The FIR No. 273/2022 under Section 21/22/25/29 of NDPS Act, was registered.

8. On 24.11.2023, the Investing Officer along with his team, after obtaining authorisation from ACP, searched the House bearing No. WZ-47A, Ground Floor, Gali No. 1, Krishna Puri, New Delhi, which was the rented house of the Applicant, Samual Akinwumi. The door of the house was opened by the keys recovered from Samual Akinwumi. No Narcotic substance was found from the rented premises.

9. The Applicants have sought the Bail on the **grounds** that they have been falsely implicated in this Case. That no recovery was effected from the Applicants. The alleged packet was picked up from the road side and no recovery can be claimed to have been made from either of the Applicants. There are no independent witnesses, who have been joined by the raiding party. The story of the Prosecution is, therefore, not believable.

10. No photograph or video tape of the recovery was made. Furthermore, no Notice under Section 103(8) of B.N.S.S was served to any person nor any effort was made to join the public witnesses. The failure to serve the Notice or record the names, contact details and reasons for public witnesses not joining the recovery proceedings in such a populated area, is clear violations of Section 103(8) of B.N.S.S, 2023. Reliance has been placed on Zakhir Hussain vs. State Govt of NCT of Delhi, 2025: DHC: 330.

11. It is further contended that there is not a whisper in the entire Charge-Sheet or in the Statements under Section 161 Cr.P.C. explaining as to from



where the alleged contraband was picked up. Further, there is no explanation of the place where it was thrown or was found lying or retrieved by the raiding members. This clearly shows that the contraband has been planted on Emmanuel.

12. It is stated that the Applicants are in judicial custody since 23.11.2022 i.e., more than two years and four months. There is an inordinate delay in conducting the trial. The matter is still at the stage of Prosecution evidence and not even examination-in-chief of single witness has been concluded till date. There are 23 Prosecution witnesses and trial is likely to take long. No fruitful purpose would be served by keeping the Applicants behind bars.

13. Reliance has been placed on Mohd. Muslim vs. State (NCT of Delhi), 2023 SCC OnLine SC 352, wherein it has been stated that when the provisions of law curtail the right of an accused to secure bail and correspondingly fetters judicial discretion (like Section 37 of NDPS Act), the Court had upheld their conflating two competing values i.e. the right of the Accused to enjoy freedom based on the presumption of innocence, and societal interest.

14. It has also been noted in the case of Vaman Narain Ghiya vs. State of Rajasthan that at the same time, the Courts have upheld the condition that the trial must be concluded expeditiously. Grant of Bail on ground of undue delay in trial, cannot be said to be fettered by Article 37 of the Act. Given the imperative of Section 436A, which is applicable to offences under the NDPS Act too. It was further observed that it would be important to reflect that laws which imposed stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the



injustice wrecked on the individual is immeasurable. The jails are overcrowded and their living conditions, more often than not, are appalling. The danger of unjust imprisonment, is that inmates are at risk of “prisonisation” whereby the Prisoner: loses his identity. He is known by a number. He loses personal possessions. He has no personal relationships. Psychological problems result from loss of freedom, status, possessions, dignity any autonomy of personal life. The inmate culture of prisons, turns out to be dreadful. The prisoner becomes hostile by ordinary standards. Self-perception changes. Further, there is a danger of the prisoner turning to crime, “*as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal.*” It was thus, concluded that the Courts, therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the Accused is irreparable), and ensure that trials- especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.

15. *It is, therefore, submitted that the Applicants may be granted Bail.*

16. ***The Status Report has been filed on behalf of the State*** wherein the details of the investigations undertaken, have been stated. It is further submitted that the quantity of MDMA recovered in the present Case clearly qualifies as commercial quantity and the statutory embargo contained in Section 37 NDPS Act, is fully applicable to the present Bail Application of Emmanuel. It is further stated that out of 23 Prosecution witnesses, part examination of one witness, has been done and the matter is listed for Prosecution Evidence.

17. Reliance has been placed on *Union of India vs. Shivshankar Kesari,*



(2007) 7 SCC 798 and NCB vs. Mohit Aggarwal, Appeal No. 1001-1002/2022 wherein it has been held that the conditions prescribed under Section 37 of NDPS Act, are mandatory and must be strictly complied with.

18. The Bail is opposed on the ground that the Applicants are Nigerian nationals, without having any permanent or verifiable residential address in Delhi rendering it difficult to secure their presence. During the course of trial, there is strong apprehension that if released on Bail, the Applicants may interfere with the on-going investigations, tamper or destroy material evidence relevant to the case of the Prosecution. There is a likelihood of them engaging in similar activities and thereby posing a continuous threat to the society and undermining the rule of law. Furthermore, the primary supplier of the contraband known by the name 'sister' remains absconding. *The Bail Applications are, therefore, opposed.*

Submissions heard and the record perused.

19. Admittedly, the Applicants are in judicial custody from 23.11.2022. The Chargesheet has already been filed but the only one witness, out of 33 Prosecution witnesses, has been partly examined. Though the Bail has been opposed on the ground that there is likelihood that the Applicants may commit the offence again and also that they have no permanent address but these cannot be the criteria for denying the Bail.

20. Considering that the Applicants Samual Akinwumi and Emmanuel are in judicial custody for about 30 months and the trial is likely to take long, they are granted Regular Bail, on the following terms and conditions:

- a) The Petitioners/Accused shall furnish a personal bond of Rs 50,000/- each and one surety of the like amount each, subject to the



satisfaction of the learned Trial Court.

- b) The Petitioners/Accused shall appear before the Court as and when the matter is taken up for hearing;
- c) The Petitioners/Accused shall provide their mobile number/changed mobile number to the IO concerned which shall be kept in working condition at all times;
- d) The Petitioners/Accused shall not indulge in any criminal activity and shall not communicate or intimidate the witnesses.
- e) In case the Accused/Petitioners change their residential addresses, the same shall be intimated to learned Trial Court and to the concerned I.O.

21. The Bail Applications and pending Application(s) are disposed of accordingly.

22. The Copy of this Order be communicated to the Id. Trial Court, Jail Superintendent as well as to the FRRO, for compliance and information.

(NEENA BANSAL KRISHNA)
JUDGE

JULY 21, 2025/RS