

Chukwnemika vs.state

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Court : Delhi

Decided On : Jan-17-2019

Appellant : Chukwnemika

Respondent : State

Judgement :

\$~5 * IN THE HIGH COURT OF DELHI AT NEW DELHI % + BAIL APPLN.
387/2018 Judgment delivered on:

17. 01.2019 CHUKWNEMIKA STATE versus

... Petitioner

..... Respondent Advocates who appeared in this case: For the

... Petitioner

: For the Respondent: Mr. Vikas Gautam, Advocate. Mr. Hirein Sharma, APP for the State. SI Data Ram, Crime Branch. CORAM:-

"HONBLE MR JUSTICE SANJEEV SACHDEVA JUDGMENT SANJEEV SACHDEVA, J.

(ORAL) 1.

... Petitioner

seeks regular bail in FIR No.33/2017 under Sections of the NDPS Act and Section 14 of the Foreigners Act, Police Station Crime Branch.

2. The allegations in the FIR are that source information was received that one Nigerian would be coming to supply cocaine in large quantity. A raiding party was prepared. It is alleged that when they reached the spot, i.e., Radisson Hotel, they found that one Nigerian person had come in a taxi. He was identified by the secret informer. It is alleged that the Nigerian kept waiting for someone, however, nobody came. Thereafter, he once again sat in a taxi and started going towards Palam Flyover. The Nigerian was sitting with two more persons. They were intercepted at a red BAIL APPLN. 387/2018 Page 1 of 3 light and on seeing the raiding party, they attempted to flee, however, they were caught by the raiding party.

3. It is alleged that after complying with the provisions of Section 50 NDPS Act, a search was conducted and 95 grams of cocaine was recovered from the possession of the petitioner.

4. Learned counsel for the petitioner submits that the petitioner has been falsely implicated. He submits that the quantity allegedly recovered is less than the commercial quantity. He submits that Section 50 of NDPS has not been complied with. Learned counsel for the petitioner relies on the judgment of the Supreme Court in Arif Khan Vs. State of Uttarakhand:

2018. SCC Online SC459 to contend that since Section 50 of NDPS has not been complied, entire proceedings are vitiated.

5.

... Petitioner

had filed the subject petition in February 2018 when it was noticed that the passport as well as the Visa of the petitioner had expired.

... Petitioner

had also been charged under Section 14 of Foreigners Act. Pending the subject proceedings, the passport of the petitioner has been renewed and now Visa has

been extended and an endorsement has been made on the Visa that the court case is pending and no exit without court order. The documents of FRRO are produced in Court. The same are taken on record.

6.

... Petitioner

has been in custody since 12.03.2017.

7. Without commenting on the merits of the case and keeping in view the totality of facts and circumstances, I am satisfied that petitioner has BAIL APPLN. 387/2018 Page 2 of 3 made out a case for grant of regular bail. Accordingly, on petitioner furnishing a bail bond in the sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the Trial Court, petitioner shall be released on bail, if not required in any other case.

8.

... Petitioner

shall not do anything which may prejudice either the trial or the prosecution witnesses.

... Petitioner

shall appear before the Trial Court as and when the case is listed before the Trial Court.

... Petitioner

shall not leave the country without the permission of the trial court.

... Petitioner

shall furnish his residential address along with his mobile number as also the mobile number of the surety to the Investigating Officer.

9. Learned counsel for the petitioner submits that petitioner does not have mobile number as of now and he shall intimate the mobile number and his address as soon as he obtains the mobile connection and acquires a place of residence.

10.

... Petitioner

shall keep the Investigating Officer informed of all changes of his residential address as also the mobile number.

11. The petition is disposed of in the above terms.

12. Order Dasti under signatures of the Court Master. SANJEEV SACHDEVA, J
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