



2026:AHC:204505

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. BAIL APPLICATION No. - 19630 of 2025

Emmanual Ebuka

.....Applicant(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Applicant(s)	:	Mohd. Shahibe Alam
Counsel for Opposite Party(s)	:	G.A., Kuldeep Kumar

Court No. - 69

HON'BLE AVNISH SAXENA, J.

1. Sri Shubham Prakash Gupta, learned Advocate, holding the brief, appeared for the applicant hands up the rejoinder affidavit. The same is taken on record.

1A. Heard Sri Gupta, learned counsel for the applicant and Sri Kuldeep Kumar, learned Advocate, Central Government Standing Counsel.

2. The present bail application has been moved by the accused-applicant **Emmanual Ebuka** to enlarge him on bail in Case Crime No. 45 of 2024, under Sections 8/21/27/27A/29/37 NDPS Act and 14 Foreigners Act, P.S.- Ecotech First, District-Gautam Budh Nagar, during the pendency of trial.

3. It is contended by learned counsel for the accused-applicant that it is the allegation in the F.I.R. dated 18.04.2024 lodged by the police that the accused-applicant and other co-accused have been arrested by the police with 26 kg 670 gm crystal and MDMA Methamphetamine drugs. The accused-applicant is a foreign national and has been falsely implicated in this case. There is no independent witness of arrest and recovery. The mandatory provisions of the NDPS Act has not been taken care of, while carrying out arrest and recovery. The charge sheet is submitted. The trial is still at the nascent stage. The applicant

has no criminal history. The applicant is in jail since 18.04.2024 and hence, the applicant seeks to be released on bail.

4. Learned A.G.A. for State has opposed the prayer for bail of the applicant, but could not dispute the aforesaid facts.

5. This Court has taken into consideration the rival submissions made by learned counsel for the parties and perused the record.

6. In the case of *Mohd. Muslim alias Hussain Vs. State (NCT of Delhi) [(2023) 18 SCC 166]* the Apex Court observed and held that the rigour under Section 37 of NDPS Act would not come in the way, when the Court deals with the liberty of a person, as more the rigour, quicker ought to be the adjudication.

7. This Court in order dated 12.09.2025 called for the status of the trial. The report of the trial Judge dated 30.09.2025 shows that till the date of report, only one witness was examined, who is complainant and despite two dates of his examination-in-chief, the material was not brought before the court, which led to the deferment of recording of first prosecution witness. Since 26.08.2025, the prosecution witness did not turn up. Nothing latest brought on record by either side.

8. Considered that the arrest and recovery has been made in the absence of independent witness and the mandatory provisions of the NDPS Act is a matter of trial, which is still at the nascent stage.

9. Hence, without touching merit of the case, the bail application is **allowed**.

10. The accused/applicant be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of court concerned in view of observation made by the Supreme Court in its dictums of *Girish Gandhi Vs. State of Uttar Pradesh [(2024) 10 SCC*

674] and Policy Strategy for grant of bail in re [(2024)10SCC 685].

11. The accused-applicant shall cooperate in judicial process for fair and speedy disposal.

12. As the accused-applicant is a foreign national and resident of Lagos Nigeria, as such the directions, as is provided in the case of **Frank Vitrus Vs. Narcotics Control Bureau** reported in **(2025) 3 SCC 1 & (2024) 8 SCC 415**, are to be followed by the court concerned, while releasing the accused.

(Avnish Saxena,J.)

September 29, 2026

Shivangi