

## Paulinus Asochukwu vs State on 16 January, 2023

**Author: Amit Sharma**

**Bench: Amit Sharma**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.A. 1103/2018 & CRL.M.A. 25247/2022 (Directions)

PAULINUS ASOCHUKWU

Through: Ms. Tanya Agarwal, Mr. K  
Mishra & Mr. Ajay, Advoc

versus

STATE

Through: Mr. Aman Usman, APP for

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% 16.01.2023 CRL.M. (Bail) 1192/2021 (Suspension of Sentence) The present application filed under Section 389 Cr.P.C. seeks suspension of sentence and grant of bail till the final disposal of the captioned appeal.

The appellant was convicted for offences under Section 29 of NDPS Act & 14 Foreigners Act. He was awarded a sentence of 10 years rigorous imprisonment ('RI') alongwith fine of Rs. 1,00,000/- and in default thereof, further RI for six months for offence under Section 29 of the NDPS Act. He was further awarded a sentence of 03 years RI alongwith fine of Rs. 10,000/- and in default thereof, further RI for one month for offence under Section 14 of the Foreigners Act.

Learned counsel appearing on behalf of the appellant submits that the co-convict of the present appellant has already been granted suspension of sentence and has been released on bail vide order dated 25.06.2020 passed in CRL.M.A. 8066/2020 in CRL.A. 49/2019, titled „Farhad Vs. State .

The nominal roll received from the office of the Superintendent, Central Jail No. 2, Tihar, New Delhi, reflects that as on 02.01.2023, the appellant has undergone incarceration of total period of 07 years 03 months 17 days out of total sentence of 10 years awarded to him.

Learned counsel appearing on behalf of the applicant relies upon orders of a co-ordinate Bench of this Court in CRL.A. 548/2020 & CRL.A. 303/2020, whereby similarly a situated appellant, i.e., a foreigner was granted bail on certain conditions.

In view of the fact that the co-convict has already been released on bail and the present appellant has already undergone incarceration of 07 years 03 months 17 days, this Court is inclined to suspend the sentence and grant bail to the present applicant/appellant. Considering the fact that the

applicant/appellant is a foreign national and has been in custody for over 7 years, it is directed that he will be released on bail on his furnishing a personal bond in sum of Rs. 50,000/- to the satisfaction of the learned Registrar General of this Court and in lieu of surety, two F.D.Rs for a sum of Rs. 50,000/- each, in the name of this Court, to be deposited before the learned Registrar General. The applicant/appellant is directed to abide by the following conditions:

- i. The appellant shall provide his mobile number to the Investigating Officer (IO) concerned, which shall be kept in working condition at all times. The appellant shall not switch off or change the same without prior intimation to the IO concerned, during the period of suspension of sentence;
- ii. The appellant shall apply for a visa within two weeks from the date of his release and his application shall be considered in accordance with law and relevant procedures;
- iii. The appellant will furnish his permanent address to the IO within 2 weeks of his release and in case he changes his address, he will inform the IO concerned and this Court also;
- iv. The appellant shall appear before the Court as and when the appeal is taken up for hearing.
- v. The appellant shall not leave the country without the permission of this Court.
- vi. The appellant shall not indulge in any act or omission that is unlawful or that would prejudice the proceedings in pending cases, if any.

A copy of this order be sent to the concerned Jail Superintendent for necessary information and compliance.

The application is allowed and disposed of in the aforesaid terms.

List in due course alongwith CRL.A. 49/2019.

AMIT SHARMA, J JANUARY 16, 2023/bsr