

**2023 LiveLaw (SC) 681**

**IN THE SUPREME COURT OF INDIA  
ABHAY S. OKA; J., SANJAY KAROL; J.**

**Special Leave to Appeal (Crl.) No(s). 6339-6340/2023; 21-07-2023  
FRANK VITUS *versus* NARCOTICS CONTROL BUREAU**

**Bail - Can bail condition requiring assurance from embassy that foreign accused will not leave India be imposed? Supreme Court to examine.**

(Arising out of impugned final judgment and order dated 31-05-2022 in BA No. 4187/2020 18-08-2022 in BA No. 4187/2020 passed by the High Court of Delhi at New Delhi)

*For Petitioner(s) Ms. Manju Jetley, AOR Mr. Varun Mishra, Adv. Mr. Ankur Jain, Adv. Mr. Aniruddha Singh Rajawat, Adv. Mr. Sanchit Jain, Adv. Mr. Ajay Sharma, Adv. Mr. Digant Mishra, Adv. Mr. Awadhesh Kumar, Adv. Mr. Manju Jetley Aor, Adv.*

*For Respondent(s) Mr. Vikramjeet Banerjee, A.S.G. Mr. Upendra Mishra, Adv. Mr. Rahul G Tanwani, Adv. Mr. Venkatesh Raghu Dasika, Adv. Mr. Arvind Kumar Sharma, AOR*

**ORDER**

The petitioner is aggrieved by the following condition imposed while granting bail:

“..

the learned Special Judge, NDPS seized of the trial in SC No.27/14 shall ensure that the certificate of assurance from the High Commission of Nigeria is placed on record that the applicants/accused shall not leave the country and shall appear before the learned Special Judge as and when required, in as much as, the complaint filed by the Narcotics Control Bureau under Sections 8/22/23/29 of the NDPS Act, 1985 indicates that the appellants are residents of Nigeria:

..”

In the case of **Supreme Court Legal Aid Committee vs. Union of India**<sup>1</sup> Clause (iv) reads as under:

*“(iv) in the case of undertrial accused who are foreigners, the Special Judge shall, besides impounding their passports, insist on a certificate of assurance from the Embassy/High Commission of the country to which the foreigner-accused belongs, that the said accused shall not leave the country and shall appear before the Special Court as and when required;”*

Prima facie, we are of the view that none of the Embassies/High Commissions may be in a position to give assurances as mentioned in Clause (iv).

The question is whether we need to refer this case to a larger Bench for re-consideration of Clause (iv).

Another condition imposed by the High Court reads thus:

*“... they shall drop a PIN on the google map to ensure that their location is available to the Investigation Officer of the case;...”*

The question is whether this condition will offend rights of the accused under Article 21 of the Constitution of India.

We request Mr. Vinay Navare, learned Senior Advocate to assist us as amicus curiae on both the issues. Registry to provide a complete set of paper book to the learned Senior Counsel as well as a copy of this order.

List on 14.08.2023.

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<sup>1</sup> (1994) 6 SCC 731