

**IN THE SUPREME COURT OF INDIA**

**ORDER XX11 RULE 2(1)**

**CRIMINAL APPELLATE JURISDICTION**

**SPECIAL LEAVE PETITION (CRL.) NO. 14185/2025**

**IN THE MATTER OF:**

**UNION OF INDIA**

**... PETITIONER**

**VERSUS**

**CHIDIEBERE KINGSLEY NAWCHARA & ANR.**

**... RESPONDENTS**

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**Dated: 30.01.2026**

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1. **GUIDELINES/DIRECTIONS AS SUGGESTED BY AMICUS  
CURIAE AND UNION OF INDIA**

*Based on the suggestion of DRI and the updated comments the following guidelines are proposed. It is made clear that these guidelines are only applicable for the grant of bail by the trial court/appellate court to foreign nationals and non-citizens who are being prosecuted for offences under NDPS in relation to commercial quantity.*

1.1. Directions to be issued to ensure that the accused's passport be mandatorily deposited either with the investigating agency or with the Court to prevent any unauthorized travel. *[In terms of Para 1 of Written Submissions dated 15.12.2025 of the DRI]*

1.2. Directions can be issued that Accused should not be allowed to travel outside without permission of the Trial court *[In terms of Para 2 of Written Submissions dated 15.12.2025 of the DRI]*<sup>1</sup>

1.3. Direction can be issued that Accused should register themselves with the FRRO within one week of release and submit a report to the Trial Court and Investigating Agency *[In terms of Para 13 of Written Submissions dated 15.12.2025 of the DRI]*

1.4. Directions can be issued for the appropriate investigating agency to move the Ministry of Home Affairs to issue Look Out Notice against foreign

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<sup>1</sup> Though the DRI sought a blanket restriction on an accused of this category exiting the country that would be in violation of Article 21 of Constitution of India, 1950. Such a restriction will have to be left to the discretion of the Court to impose a restriction on travel abroad without permission of the Trial Court.

national accused arrested under NDPS Act upon their arrest. **[In terms of Para 15 of Written Submissions dated 15.12.2025 of the DRI]**<sup>2</sup>

1.5. While DRI has proposed that foreign national should mandatorily require two sureties. This Court may determine whether it should be left to the discretion Courts to insist on one or two sureties. **[In terms of Para 4 of Written Submissions dated 15.12.2025 of the DRI]**

1.6. DRI has suggested that amount of Cash/ Personal Bond should be commensurate with the severity of crime or percentage of seizure value of narcotics in the case. While this suggestion seeks to tie the Cash/ Personal Bond to “severity of crime or percentage of seizure value of narcotics” it would more appropriate to make it commensurate to the quantity of the narcotics. **[In terms of Para 5 of Written Submissions dated 15.12.2025 of the DRI]**

1.7. Directions can be issued to ensure that residential address of the Foreign National Accused’s in India is verified prior to their release. **[In terms of Para 9 of Written Submissions dated 15.12.2025 of the DRI]**

1.8. Direction can be issued to ensure that foreign national accused involved in NDPS Case having commercial quantity, there should be physical verification of the sureties through jurisdictional police, to ensure their genuineness before releasing the accused on bail, the said verification should be done within 3 days. **[As per DRI’s updated suggestion on 28.1.2026 after meeting with Law Enforcement Agencies]**

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<sup>2</sup> Issuance of a Look Out Circular (LOC) would ensure that any attempt by a foreign accused to leave the country is immediately flagged to the investigating agency, enabling verification of prior court permission. In the absence of an LOC, immigration officials may be unaware that the individual is an accused facing trial in an NDPS case.

- 1.9. Direction could be issued to appropriate investigating agencies to ensure verification of the accused and their surety within a period of 3 days and be placed before the trial court, prior to their release. *[In terms of Para 7 of Written Submissions dated 15.12.2025 of the DRI]*
- 1.10. Directions could be issued for the Foreign National Accused to furnish complete and verified contact details, within a period of 7 days from release on bail, including a valid mobile number which is functional/operative in India, to the investigating agency and shall further report any change therein. The said registered mobile number should remain active. *[In terms of Para 10 of Written Submissions dated 15.12.2025 of the DRI]*
- 1.11. Directions could be issued to ensure Foreign National Accused are required to mark their presence weekly in the jurisdictional police station and report to investigating officer, upon his release on bail. *[In terms of Para 11 of Written Submissions dated 15.12.2025 of the DRI]*
- 1.12. Directions can be issued to ensure that Foreign national Accused shall file affidavit before the Trial Court within one week of his release on bail, stating source of their funds and source of their income in this country if any, giving details of their bank accounts through which they would be operating their finances. *[In terms of Para 14 of Written Submissions dated 15.12.2025 of the DRI]*
- 1.13. Directions can be issued calling for certificate from concerned embassy/consulate, assuring that the accused shall not leave the country, shall attend

court hearings and shall abstain from committing any further offences.<sup>3</sup> ***[In terms of Para 17 of Written Submissions dated 15.12.2025 of the DRI]***

**1.14.** Directions can be issued to inform the Embassies/Consulates of the facts of the case and the bail conditions imposed on the accused. They may also be requested to share any details of the accused available with them and to intimate the same whenever the accused approaches them for any consular services. ***[In terms of Para 18 of Written Submissions dated 15.12.2025 of the DRI & Para 7.1.3 (d) of Amicus Curiae's Written Submissions dated 13.01.2026]***

**1.15.** Direction could be issued to Ministry of Electronic and Information Technology and Ministry of Home Affairs, be issued to formulate a guideline *vis-à-vis* use of Geo-fencing Technology, if viable, to ensure that accused do not violate conditions of Bail *vis-à-vis* geographic limitation. ***[Refer Para 7.1.1 of Amicus Curiae's Written Submissions dated 13.01.2026 & In terms of Para 19 of Written Submissions dated 15.12.2025 of the DRI]***

**1.16.** Direction could be issued to the Unique Identification Authority of India in terms of Good Governance (Social, welfare, innovation, knowledge) Rules, 2020 updated as on 23.10.2023, to allow use of Aadhar Authentication for Surety Verification. ***[Refer Para 7.1.2 of Amicus Curiae's Written Submissions dated 13.01.2026 & As per DRI's updated suggestion on 28.1.2026 after meeting with Law Enforcement Agencies]***

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<sup>3</sup> Though DRI suggests that in absence of the certificate from the concerned embassy/consulate bail should be denied to the Foreign National Accused, the same would be contrary to the law laid down in *Frank Vitus V. NCB & Ors, 2024 (8) SCC 415*

- 1.17. Directions may be issued to upgrade and adopt the existing portal, viz. NIDAAN (National Integrated Database Portal on Arrested Narco Offenders), by all relevant Law Enforcement Agencies for comprehensive data entry with respect to NDPS accused, as well as for effective monitoring, especially of repeat offenders. *[As per DRI's updated suggestion on 28.1.2026 after meeting with Law Enforcement Agencies]*
- 1.18. Directions can be issued to ensure compliance of Section 129 of BNSS, 2023 could be made mandatory and a specific provision may be incorporated to enable the execution of a 'Bond for Good Behaviour' in respect of repeated offenders under NDPS act. This would facilitate effective supervision and control over foreign nationals involved in the repeated violation. *[In terms of Para 26 of Written Submissions dated 15.12.2025 of the DRI]*
- 1.19. Directions could be issued in terms of Section 34 of NDPS Act which provides for execution of bond by a convicted accused for abstaining from commission of any offence under the said Act. *[As per DRI's updated suggestion on 28.1.2026 after meeting with Law Enforcement Agencies]*
- 1.20. Direct the Ministry of Law and Justice, to create a Centralized Database of Sureties i.e., Surety Information Management System (SIMS) with provision of allotting a Unique Identification Number, to each surety. *[Refer Para 7.1.4(c)(i) of Amicus Curiae's Written Submissions dated 13.01.2026 & As per DRI's updated suggestion on 28.1.2026 after meeting with Law Enforcement Agencies]*

## **2. ADDITIONAL GUIDELINES/DIRECTIONS SUGGESTED BY AMICUS CURIAE**

**2.1.** Where fabricated or impersonated sureties are found to have been verified and accepted based on police verification reports as well as revenue officers' verification reports, a mandatory departmental inquiry should be initiated against the concerned officials responsible for such verification- Ministry of Home Affairs to issue Advisory, with regards to Departmental Consequences on erring officials including police, revenue and court staff with respect to such negligence, collusion or dereliction of duty. There should also be timeline prescribed for conclusion of the aforesaid departmental enquiry. **[Refer Para 7.1.3 (a) of Amicus Curiae's Written Submissions dated 13.01.2026]<sup>4</sup>**

**2.2.** Directions can be issued to the Reserve Bank of India to issue appropriate circulars to all banks to link Fixed Deposit or Bank Account of the concerned surety to the Bail Bond and create a lien on the Bail Bond amount. **[Refer Para 7.1.3 (c) of Amicus Curiae's Written Submissions dated 13.01.2026]**

**2.3.** Direction can be issued to the Registrars of all High Courts to create digital infrastructure/portal for courts to access and verify financial and property credentials for authentication of documents/information of surety. **[Refer**

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<sup>4</sup> As police is a State Subject [Entry 2, List- II, 7<sup>th</sup> Schedule of The Constitution of India, 1950], Hence, The MHA can only issue Advisory and Directions to this effect can only be passed after impleading appropriate State Governments.

**Para 7.1.4(e)(i) of Amicus Curiae's Written Submissions dated 13.01.2026]**

2.4. Directions can be issued to the Unique Identification Authority of India, Ministry of Road Transport Highway, Reserve Bank of India and Revenue Departments to issue necessary circular/directions so that information on Aadhaar, M-Parivaahan, Bank Account details, Land Registry Records maintained online by Registrar are accessible through the aforesaid online portal for real time verification. **[Refer Para 7.1.4(e)(ii)(iii) of Amicus Curiae's Written Submissions dated 13.01.2026]**

2.5. Directions can be issued to Ministry of Home Affairs to revise FORM 47 of the BNSS, 2023 with relevant legislative amendment to incorporate enhanced disclosures, biometric linkage, and declarations regarding previous surety engagements, with penal consequences for false statements. **[Refer Para 7.1.5(a) of Amicus Curiae's Written Submissions dated 13.01.2026]**

2.6. High Courts and Judicial Academies can be directed to provide structured training on the socio-economic impact of surety-based bail and the barriers it creates for indigent undertrials, and judicial academies ought to incorporate dedicated modules on bail jurisprudence, financial vulnerability and access to justice. **[Refer Para 7.1.5(g) of Amicus Curiae's Written Submissions dated 13.01.2026]**

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