

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-BA-32-2020**

Antonio Manuel Faria Ramos ... Applicant

Versus

The State of Goa ... Respondent

Shri Rohan P. Desai, Advocate for the Applicant.

Shri S.R. Rivankar, Special Public Prosecutor with Shri G. Nagvekar,
Additional Public Prosecutor for the Respondent.**Coram:- DAMA SESHADRI NAIDU, J.****Date:- 1st September 2020****P.C. :**

The petitioner, allegedly a tourist, is said to have been found with three items of prohibited substance. They weighed 400 gms. But throughout, the authorities concerned weighed the substance with the polythene sachet the substance kept in. At any rate, earlier, the Special Court has dismissed the applicant's application for bail through a detailed order. Then he has come before this Court.

2. Before the applicant's counsel would advance his arguments, the learned Special Public Prosecutor brought to my notice what he called a technical lapse in the authorities' weighing the substance. According to him, indeed, as the applicant's counsel has contended in the bail application, the substance was weighed along with the sachet. But that was done before the very learned Magistrate.

3. Under the statute, 10 gms amounts to commercial quantity. Now, on facts, there is no way the plastic sachets weighing, the learned Special PP stresses, over 90 gms to treat the substance as variable quantity. To remedy the situation, the prosecution wants to have the substance reweighed without the sachet, before the Magistrate. According to the

learned Special PP, the contraband has already been placed before the Court below. Under these circumstances, he seeks two weeks' time.

4. In response, Shri Rohan Desai, the learned counsel for the applicant, protests. Besides, he also submits that the applicant is only a tourist, unfortunately implicated in the crime. According to him, the prosecution cannot seek further time to remedy its own mistake, when the applicant has been suffering incarceration, which in fact affects his fundamental right to liberty.

5. At any rate, as rightly contended by the learned Special PP, given the quantity of the substance, the Court needs to adopt a cautious approach. Therefore, two weeks' time is granted for the prosecution to re-ascertain the net weight of the substance. It has also been brought to my notice that the FSL report has already come positive.

6. Under these circumstances, let the matter stand over on 15.09.2020.

7. Needles to observe that if any proceedings take place before the trial Court about the net weight of the substance or on any other issue, the trial Court will hear the applicant's counsel as well.

DAMA SESHADRI NAIDU, J.

NH