

IN THE HIGH COURT OF BOMBAY AT GOA  
**LD-VC-BA-28-2020**

Mr. Aggi Fernandes @ Agnelo Fernandes,  
Son of Mr. Anthony Fernandes,  
Aged 28 years, Bachelor, Self employed,  
Resident of H.NO.37/5, Afframent Vaddo,  
Verla Canca, Bardez, Goa.  
Presently lodged in Judicial Lock-up  
Modern Central Jail at Colvale,  
Colvale, Goa.

... Applicant

Versus

1. State of Goa

(As represented by the Officer Incharge,  
Calangute Police Station,  
Calangute, Bardes, Goa)

2. The Public Prosecutor,

High Court Bldg.,  
Althino Panaji, Goa.

... Respondents

Shri Salil Saudagar, Advocate for the applicant.

Shri Pravin Faldessai, Additional Public Prosecutor for the respondents.

**Coram:- NUTAN D. SARDESSAI, J.**

**Date :- 13<sup>th</sup> August, 2020**

**P.C.:**

Heard Shri Salil Saudagar, learned Advocate for the applicant who contended that the applicant was placed under arrest on 28/06/2020 and has been in the judicial custody since July of this year. The investigation in this case has been completed and his custodial interrogation is no longer required by the police. Besides, he was found in possession of 0.07 grams of LSD which is a variable quantity apart from the small quantities of charas and ganja which are offences bailable in nature. In the circumstances, therefore, there was no reason to confine him in custody and he ought to be enlarged on bail by putting him to terms and conditions.

2. Shri Pravin Faldessai, learned Additional Public Prosecutor submitted that the applicant is not found in possession of one but more than two substances being charas, ganja and the variable quantity of LSD. Moreover, he was also arrested in another Crimes under Sections 504 and 506

IPC though it is another matter that he has been enlarged on bail, despite which the applicant has been engaging in criminal activities and therefore looking to his background there was no reason to enlarge him on bail.

3. Shri Salil Saudagar, learned Advocate for the applicant in reply contended that however offences with which he has been charged are under Sections 504 and 506 IPC and where he has been enlarged on bail and there is no question of the applicant not being available to the Investigating Agency being a local person with roots in the society. He may therefore, be enlarged on bail.

4. I have considered the submissions of Shri Salil Saudagar, learned Advocate for the applicant and Shri Pravin Faldessai, learned Additional Public Prosecutor on behalf of the State. Both the quantities found with the applicant i.e. charas and ganja are admittedly small quantities to which he is entitled to bail in the regular course being the small quantity. The only question which remains is whether the applicant

would be entitled to the benefit of bail in respect of the variable quantity of the LSD found on his person. Admittedly, being a variable quantity the rigors of Section 37 of the NDPS Act would not apply and therefore i do not see why the applicant should be denied the benefit of bail only on this specious premise that another offence has been registered against him under Sections 504 and 506 IPC where admittedly he is on bail. The presence of the applicant can be secured by putting him to certain terms and conditions.

5. In the circumstances, therefore, i allow the application on the following terms and conditions:

- 1.The applicant shall be enlarged on bail on executing bail bonds in the amount of ₹50,000/- (Rupees Fifty Thousand only) and furnishing one local surety in co-extensive amount to the satisfaction of the learned Sessions Judge, North Goa, Panaji.

2. The applicant shall co-operate with the course of investigation, if required and otherwise would not tamper or intimidate the witnesses.
3. He shall ensure his presence during the course of the trial on all the dates of hearing.
4. He shall forward his detailed local address to the Investigating Officer.
5. The applicant shall also not leave the State of Goa and the territorial waters of India without the prior written permission of the learned Sessions Judge, North Goa, Panaji.
6. In these terms the application stands disposed off.
7. Parties to act on the basis of the authenticated copy of this order.

**NUTAN D. SARDESSAI, J.**