

IN THE HIGH COURT OF BOMBAY AT GOA.**LD-VC-BA-117-2020**

Obiajulu Tochukwu Praise,
Presently in Colvale Jail

...Applicant.

Versus

State of Goa and Anr.

...Respondents.

Mr. K Poulekar, Advocate for the Applicant.

Shri P. Faldessai, Addl. Public Prosecutor for the respondents.

Coram:- DAMA SESHADRI NAIDU, J.

Date:16 December 2020.

ORAL ORDER:

On 27.12.2019, the trial Court allowed the applicant's bail application, subject to conditions. One of the conditions reads thus:

“4. The petitioner shall produce his original passport and visa before this Court.”

2. Later, the applicant went back to the trial Court and wanted the condition no. 4 in the bail order modified. It was to the extent of his producing the visa before the court. But the Trial Court dismissed that application for modification for it concluded it had no jurisdiction.

3. Aggrieved, the applicant filed LD-VC-Cri-41-2020 before this Court. Then, on 02.09.2020, this Court modified the bail condition. The order, to the extent relevant, reads:

“4. At any rate, the fact remains that the applicant has a valid passport but not a valid visa. It is a matter of official record. The purpose of the bail condition is to ensure that the applicant, a foreign national, does not leave the country. Once the applicant deposits the passport, the objective behind the requirement stands satisfied because, admittedly, the applicant

has no valid visa—to flee the country, if ever. Besides, once he comes out, he may pursue with the authorities and secure a valid visa as well. On his securing it, he must again deposit it with the trial Court as directed in the bail application.

5. Meanwhile, it will suffice if the applicant submits his passport to the Investigating Officer, who after ascertaining its genuineness will place it before the trial Court. If that happens, the applicant is entitled to his enlargement on bail.

6. With this modification of the bail conditions, I dispose of the bail application: The applicant shall submit his passport to the Investigating Officer, who will have it verified by gathering information from the embassy concerned. After that, the IO will place the verified passport before the trial Court. The Court will appreciate if the IO takes all steps to expedite the matter and complete the verification, preferably, in 30 days after the passport is handed over to him.”

4. In compliance with this Court’s order, dated 02.09.2020, the applicant deposited his passport bearing no.A09188744 before the officer in charge of Pernem Police Station for verification.

5. Now, the applicant has come up with this application, ventilating his grievance that though this Court directed the police to have the applicant's passport verified, they have been taking inordinate time. In this context, the applicant’s counsel reminds me that the applicant was granted bail almost a year ago, but still he could not earn his freedom because of the technical hurdles. According to him, in the passport verification, the applicant has no say. In fact, he has provided all the information to enable the police to have the verification done fast. Yet they have not been diligent enough in getting it done at the earliest.

6. Heard Shri K. Poulekar, the learned counsel for the applicant, and Shri P. Faldessai, the learned Additional Public Prosecutor for the respondents.

7. Indeed, indisputably almost a year ago, the trial Court granted bail to the applicant. One of the conditions came in the way of his

having that order implemented. Then, the applicant had his valid passport but did not have valid visa. The applicant is also said to have applied before FRRO to provide a valid visa; it has not been issued to him till date. Eventually, this Court accepted his prayer to modify the condition no.4 of his bail vide order, dated 02.09.2020. That was subject to the police verifying the genuineness of the new passport. For, then, the prosecution doubted the authenticity of the passport.

8. Though it has been a couple of months since this Court wanted the police to have the passport verified, I am told that despite their best efforts, the police could not get any prompt response from the Nigerian Embassy. Administrative delays, it seems, are unavoidable.

9. Under these circumstances, to balance the equities and to serve the interest of justice, I reckon the bail condition no.4 shall be further modified. The condition that the passport should be accepted after its verification shall stand undisturbed. But before that verification process gets completed, the applicant shall be released on bail if he complies with the rest of the conditions of the order, dated 27.12.2019. At any rate, until the verification is completed and the genuineness of the passport ascertained, the applicant shall visit the Pernem Police Station every day at 11.00 a.m. Once the passport is found genuine, this condition ceases to operate.

The application stands disposed of.

DAMA SESHADRI NAIDU, J.

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