

IN THE HIGH COURT OF BOMBAY AT GOA**LD-VC-BA-27-2020**

Ifeanyi Chibuzo Sunday ... Applicant

Versus

State of Goa & Anr. ... Respondents

Shri T. George John, Advocate for the Applicant.

Shri Gaurish Nagvekar, Additional Public Prosecutor for the Respondents.

Coram:- DAMA SESHADRI NAIDU, J.**Date:- 2nd September 2020****P.C. :**

In a crime connected with an offence under the NDPS Act, the applicant was arrested on 10.12.2019. Later, he applied for regular bail, but the trial Court, through its order dated 27.06.2019, dismissed that application. While dismissing the bail application, the trial Court has noted that the quantity of the contraband seized from the petitioner is of commercial quantity. So it has reckoned that Section 37 of the Act applies to the case.

2. Later, as the prosecution's say in this matter reveals, the prosecution has had the substance subjected to chemical analysis. The FSL report has found that the contraband comprised two distinct substances: one suspected methamphetamine and the other cocaine. It is also evident that both are of a variable quantity. Under these circumstances, the foundation of the trial Court's finding—commercial quantity—stands refuted.

3. But we must accept that the FSL report is a later development; the trial could not have the advantage of that report.

4. I, therefore, dispose of this bail application giving liberty to the petitioner to move a fresh bail application before the trial Court. In that process, he may bring to the trial Court's notice the FSL findings. That

said, I also clarify that both parties will have all their contentions unaffected in the bail application to be filed before the trial Court.

With this observation, this bail application stands disposed of.

DAMA SESHADRI NAIDU, J.

NH