

**IN THE HIGH COURT OF BOMBAY AT GOA.**

**LD-VC-BA-110/2020**

Michael Nzube, Presently in  
Colvale Jail

...Applicant.

Vs

State of Goa, and anr.

...Respondents.

Ms. Caroline Collasso, Advocate for the Applicant.

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

**Coram:- DAMA SESHADRI NAIDU, J.**

**Date:14 December 2020.**

P.C.

On 6.12.2019, the trial Court allowed the applicant's bail application subject to conditions. One of the conditions reads thus:

“4. The Calangute Police Station to produce a copy of the passport of the applicant as mentioned in “C” form that the passport is with Calangute Police Station and verify the same.”

2. Later, the applicant went back to the trial Court and wanted the condition no. 4 in the bail order modified. According to him, the passport lying with the Calangute police station had expired and, because of that, he secured a new passport. So if the condition was suitably modified, he would produce the renewed passport before the Court. But through its order dated 25.8.2020, the trial Court dismissed that application. It was on the premise that it had no power to modify the bail conditions.

3. Aggrieved, the applicant filed LD-VC-Cri46/2020 before this Court. Then, on 16.9.2020, this Court modified the bail condition. The order, to the extent relevant, reads:

“6. Under these circumstances, I modify condition no.4 in the bail order, dated 6.12.2019, and hold that if the

applicant produces a valid passport before the trial Court, that will amount to his complying with the condition of producing the passport. Then, the trial Court will enlarge him on bail subject to the applicant's fulfilling all other conditions set out in the bail order, dt.06.12.2019.

7. At this juncture, the learned APP wanted the Court to give the prosecution liberty to verify the genuineness of the passport. Indeed, it goes without saying that either at the trial Court's direction or on its own, the prosecution may get the passport verified with the authorities concerned and assist the trial Court in having its bail order implemented."

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 the inordinate time. In this context, the applicant's counsel reminds me that the applicant was granted bail over a year ago, but still he could not earn his freedom because of the technical hurdles. According to her, 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 Ms Caroline Collasso, the learned counsel for the applicant; and Shri P. Faldessai, the learned Addl. Public Prosecutor for the respondents.

7. Indeed, indisputably over a year ago, the trial Court granted the bail to the applicant. One of the conditions came in the way of his having that order implemented. Then, the applicant wanted to submit the new passport in place of the expired one found in the police custody. Eventually, this Court allowed him to do so, but 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 6.12.2020. At any rate, until the verification is complete and the genuineness of the passport ascertained, the applicant shall visit the Calangute 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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