

IN THE HIGH COURT OF BOMBAY AT GOA.

(LD-VC-CRI 46/2020)

Michael Nzube Applicant.

Vs

State and ors. Respondents.

Shri K. Poulekar, Advocate for the Applicant.

Shri G. Nagvenkar, Addl. Public Prosecutor for the respondents.

Coram:- DAMA SESHADRI NAIDU, J.

Date: 16th September 2020.

P.C.

The applicant has been charged with an offence under Section 21(b) of the NDPS Act for possessing 37 grams of suspected cocaine. The Calangute PS registered Crime No.194/2019 and later charge-sheeted him, too. In that offence, the Additional Sessions Judge-I at Mapusa granted bail to the application, through its order, dated 6.12.2019. One of the bail conditions reads thus:

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

2. Soon after his securing the bail, the applicant applied to the trial Court to have the above bail condition modified. But the trial Court, through its order dated 25.8.2020, dismissed that application. It was on the premise that under Section 439(1)(b) of Cr.P.C., it is the High Court that

has the jurisdiction. Therefore, now the applicant has come up with this application.

3. In response to the submissions advanced by the applicant's counsel, the learned Additional Public Prosecutor has fairly submitted that this Court may modify the bail condition but, at the same time, by securing the prosecution's interest as well, as set out in the reply.

4 In response, the applicant's counsel informs me that the applicant has been facing another crime in CC No.75/S/2015/A before the Judicial Magistrate, First Class, Mapusa. According to him, in that case the police seized the applicant's passport even before he could secure his bail. But that seized passport was valid only up to 2016.

5. To elaborate, the applicant's counsel has submitted that as the seized passport had expired, the applicant now has secured a renewed passport, which is valid up to 2025. According to him, if this Court modifies the bail condition no.4, the applicant will produce the current passport, so that may amount to a proper compliance.

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 the 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.

8. With the above observations, I dispose of this Criminal Application.

Parties to act on the authenticated copy of this order. If the applicant fails to produce an authenticated copy, then the trial Court may act on an e-copy after verifying from the High Court's website.

DAMA SESHADRI NAIDU, J.

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