

CRIMINAL MISC. APPLICATION NO. 107 OF 2004.

Mr. John Mutua Mutiso,
r/o Calangute, Bardez, Goa,
presently lodged in
Judicial Custody,
Judicial Lock-Up,
Panaji, Tiswadi, Goa. ... Applicant.

VERSUS

State of Goa,
As represented by
Officer-In-Charge,
Anti Narcotic Cell
Police Station,
Panaji, Goa. ... Respondent.

Shri A. Monteiro, Advocate for the Applicant-Accused.

Shri S.N. Sardessai, P.P. for the Respondent-State.

CORAM: N.A. BRITTO, J.

DATE: 12TH MAY, 2004.

ORAL ORDER:

Heard learned Advocate Shri A. Monteiro on behalf of the Applicant-Accused and learned P.P. Shri S.N. Sardessai, on behalf of the respondent on the application for Bail dated 19.4.2004 filed on behalf of the said accused.

2. This is the second time that the accused has approached this Court for bail in ANC.P.S. CR.No. 11/2003 under Section 20(b)(ii) of N.D.P.S. Act, 1985. The allegation against the accused is that on 13.12.2003 at about 15.00 hrs. the accused was found in possession of 128 gms.. of charas valued at Rs.12,800/- approximately.

3. Notice having been given to the respondent, the grant of bail is opposed by stating that the accused is a Kenyan National who has no permanent place of stay in this State and was otherwise temporarily residing in Calangute. The only objection taken is that in case the accused is admitted to bail, he is likely to abscond and evade the trial.

4. The accused has filed a xerox copy of his passport before this Court. The accused has also filed a copy of the letter dated 4.12.04 from the Kenyan High Commission. It appears that there is no longer any discrepancy in the name of the accused and consequently regarding his identity. This Court, by its Order dated 25.3.04 in Cr.M.A. 63/2004 had given liberty to the accused to apply for bail afresh before the learned Special Judge, N.D.P.S. Court, Mapusa. The accused having made an application for bail, the

same has been rejected by the learned Special Judge by Order dated 1.3.2004. The learned Special Judge has opined that the quantity found with the accused is variable quantity which would entitle him to be released on bail. However, the learned Special Judge, felt that the accused being a foreign national the abscondence of the accused could not be ruled out.

5. This Court, by Order dated 31.12.2003 in Cr.M.A. No.292/2003 has ensured that the accused who was a foreign national would be available for trial by imposing stringent conditions. I am informed that the trial of the accused is likely to take some time. Consequently, I am inclined to admit the accused to bail on furnishing a Personal Bond of Rs.50,000/- with one surety in the like amount to the satisfaction of the Trial Court. In other words the accused to deposit Rs.50,000/- in lieu of the execution of the Personal Bond in addition to the execution of Bond by surety. The accused shall be released on bail on the following conditions :-

(i) The accused to surrender his Passport before the Special Judge, N.D.P.S. Court, Mapusa.

(ii) The accused to report to the I.O. every week on Tuesday at 10.00 a.m. until the filing of the

charge-sheet.

(iii) The accused to file before the Special Judge, N.D.P.S. Court, Mapusa the address where notices or processes could be served upon him and shall not leave the jurisdiction of the said Court without its prior permission.

(iv) Any change of address to be notified to the Special Judge of the said Court.

(v) The accused not to directly or indirectly interfere with the witnesses.

(vi) The accused to execute the Bond with the above conditions to the satisfaction of the learned Special Judge, N.D.P.S. Court, Mapusa.

N. A. BRITTO, J.

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