

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 118 OF 2004.

Mr. Mohamad Ziawalla,
Presently lodged in
Judicial Custody,
Judicial Lock-Up,
Panjim, Goa. ... Applicant.

VERSUS

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

Ms. G. D'Souza, Advocate for the Applicant.

Mr. S.N. Sardessai, P.P. for the State/Respondent.

CORAM: N.A. BRITTO, J.

DATE: 12TH MAY, 2004.

ORAL ORDER:

Heard learned Advocate Ms. G. D'Souza on behalf of the Applicant-Accused and learned P.P. Shri Sardessai on behalf of the respondent, on application for bail dated 30.4.2004 filed on behalf of the said accused.

2. The said accused was arrested on 20.2.2004 on the allegation that the said accused was found in

possession of 766 gms. of charas when the accused was near Hill Top Bar and Restaurant, Portais, Panaji. Subsequently, CR.NO.03/2004 under Section 20(b)(ii)(B) of N.D.P.S. Act, 1985 was registered against the accused.

3. The said accused filed an application for bail before the learned Special Judge, N.D.P.S. Court, Mapusa, who was pleased to reject the application by Order dated 8.4.2004.

4. Notice of this application having been given to the respondent, the grant of bail has been opposed, stating that the accused is from Dhavangiri, Karnataka and that in case the said accused is released on bail, it is likely that the said accused will jump bail and will not be available for trial before the said N.D.P.S. Court, Mapusa.

5. In rejecting the bail application of the accused, the learned Special Judge has taken note of the fact that the accused is a native of Dhavangiri, Karnataka not having roots in the State and that the quantity found with the accused is nearer to commercial quantity though strictly is not commercial quantity for the bar of refusal of bail to come into operation.

6. Learned Advocate Ms. D'Souza submits that anything below 1000 gms. would not amount to commercial quantity as defined by SO.1055(E) dated 19.10.01 issued under Section 2 of the N.D.P.S. Act, 1985. Shri Sardesai has no quarrel with the above proposition. The fact that the accused is not from this State can be no reason good enough to deny him bail. The presence of the accused at the trial could be secured by imposing sufficient Conditions in granting bail to the accused.

7. As a result the application filed on behalf of the accused for bail is hereby granted on the following conditions:-

(i) The accused shall be released on bail upon execution of a Personal Bond of Rs.40,000/- with one local surety in the like amount to the satisfaction of the Trial Court. The accused to deposit Rs.40,000/- in lieu of execution of the Personal Bond. In addition, the accused to provide a local surety in the sum of Rs.40,000/-.

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

(iii) The accused to report to the I.O. every week until the filing of the charge-sheet.

(iv) 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.

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

(vi) The accused to report to the I.O. at 10.00 a.m. on every Tuesday of the week. The accused not to directly or indirectly interfere with the witnesses.

(vii) 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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