

2023 SCC OnLine Bom 1569

In the High Court of Bombay at Goa
(BEFORE PRAKASH D. NAIK, J.)

Abdul Kadir Arsiwala ... Applicant;

Versus

State of Goa, Rep. by the office in charge and
Another ... Respondents.

Criminal Miscellaneous Application No. 60 of 2023

Decided on August 1, 2023

Advocates who appeared in this case :

Ms. Dolorosa C. Tulkar, Advocate for the Applicant.

Mr. S.G. Bhohe, Public Prosecutor for the Respondent.

The Order of the Court was delivered by

PRAKASH D. NAIK, J.:— This is an application for suspension of sentence and grant of bail during the pendency of the appeal challenging the judgment and order dated 30.06.2023 passed by the learned Additional Sessions Judge North Goa, Panaji convicting the applicant for the offence punishable under section 20(b)(ii)(B) of the NDPS Act and sentencing him to undergo rigorous imprisonment for a period of three years and to pay fine of Rs. 75,000/-

2. Learned Advocate for the applicant submits that the applicant was on bail during the pendency of the trial. The sentence of imprisonment was suspended by the trial Court on the date of conviction for a temporary of period of 30 days. There are serious discrepancies in the evidence adduced by the prosecution. Although the applicant was allegedly found in possession of the contraband in the bag which was on his person there was no compliance of section 50 of the NDPS Act. The trial Court has held that Section 50 of the Act is not applicable. There are various discrepancies in evidence which can go to the root of the matter.

3. Learned Public Prosecutor submitted that the applicant has been convicted for offences under NDPS Act. Prosecution has adduced sufficient evidence.

4. Considering the issues raised in the matter and the fact that the sentence of imprisonment was suspended and that the applicant was on bail during the trial, the prayer for suspension of sentence of imprisonment can be granted.

5. Hence, I pass the following order:—

ORDER

- (i) The Criminal Miscellaneous Application is allowed.
 - (ii) The substantive sentence of imprisonment imposed by the learned Additional Sessions Judge North Goa, Panaji vide judgment and order dated 30.06.2023 in Special Criminal Case (NDPS) No. 21/2014 is suspended and the applicant is directed to be released on the same bail as in the trial court with fresh PR bond.
 - (iii) The applicant shall furnish his proper address to the trial Court while executing the PR bond.
 - (iv) The applicant is granted four weeks time to deposit the fine amount.
6. The application is disposed of.

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