

2023 SCC OnLine Bom 1368

In the High Court of Bombay at Goa
(BEFORE M.S. KARNIK, J.)

Geoffrey Samuel Kelvin ... Applicant;

Versus

State as represented by Officer Incharge, Anc.Ps.
Panjim Goa and Another ... Respondents.

Criminal Application(Bail) No. 444 of 2023-F

Decided on July 10, 2023

Advocates who appeared in this case:

Mr. K. Poulekar, Advocate for the Applicant.

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

The Judgment of the Court was delivered by

M.S. KARNIK, J.:— Heard Mr. K. Poulekar, learned Counsel for the applicant and Mr. S. G. Bhohe, learned Public Prosecutor for the respondents.

2. This is an application for bail for the offence registered vide FIR No. 07/2023 of the ANC Police Station. The applicant is a Nigerian National and holder of a Nigerian Passport. The applicant has applied for a visa and the application is pending. The applicant was apprehended with 20 gms of cocaine and 8 gms of MDMA. The quantity found was variable quantity. This was below the commercial quantity prescribed under the Narcotic Drugs and Psychotropic Substances Act, 1985. The offence was registered against the applicant under Section 21(b) and 22(b) of the said Act. The Investigation is completed and chargesheet has been filed on 2.5.2023.

3. Opposing the application, Mr. Bhohe, learned Public Prosecutor pointed out that there are two criminal antecedents that should be a factor dissuading this Court from releasing the applicant on bail. The first is an offence registered as far back in 2012 where the applicant was found with 10 gms of cocaine, again a variable quantity. In 2016, the applicant was arrested with 3.8 gms of Methamphetamine again a variable quantity. The trial in respect of these offences is still pending. Considering the distance of time between the present offence and those registered earlier, in my opinion, the applicant should not be deprived the facility of bail only on the ground of criminal antecedents. The applicant can be released on bail by imposing stringent conditions. The trial is likely to take a long time to conclude. Hence the following:—

ORDER

- a. The Applicant shall be released on bail in connection with FIR No. No. 7/2023, registered at the ANC Police Station, on furnishing PR bond of Rs. 1,00,000/- and producing sureties of the like amount to the satisfaction of the Trial Court.
 - b. The release of the Applicant shall be subject to production of valid passport and visa. Since passport and visa can be applied online, as informed by the learned Public Prosecutor, the Applicant will have to apply for the same from jail. The Respondent-State authorities shall provide assistance to the Applicant. But it is made clear that without producing valid passport and visa, the Applicant shall not be released on bail.
 - c. Upon producing such valid passport and visa, the Applicant shall place copies thereof before the Trial Court.
 - d. The Applicant shall register himself on the basis of such valid passport and visa, with the Foreigners Regional Registration Office (FRRO) at Goa, within two weeks of his release.
 - e. The Applicant shall use sim card for mobile phone that is obtained on the basis of such valid passport issued in his favour and he shall give the details of such contact number before the Trial Court at the earliest.
 - f. The Applicant shall inform the place of his residence to the Trial Court with valid proof thereof and report any changes in the same immediately with appropriate proof each time before the Trial Court. If the applicant fails to provide such details, he shall be kept in detention centre(s) established by the respondent State.
 - g. The Applicant shall file affidavit before the Trial Court within two weeks of his release on bail, stating the source of his funds and source of his income in this country, giving the details of legal channels including Bank accounts through which he would be operating his finances.
 - h. The Applicant shall report to the ANC Police Station every Monday between 10.00 a.m. and 12.00 noon, till the completion of trial.
 - i. The Applicant shall not indulge in any activity that would amount to tampering with evidence and influencing witnesses.
 - j. The Applicant shall remain present before the Trial Court on each and every date of the proceeding and he shall co-operate with such proceedings.
 - k. The applicant shall not leave State of Goa without prior permission of the trial Court.
4. Application for bail stands disposed of.

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