

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO.113 OF 2018

CHRISTOPHER ONUIGBO,
PRESENTLY LODGED IN COLVALE JAIL. ... Applicant

Versus

STATE OF GOA,
THR. CALANGUTE POLICE STATION,
CALANGUTE AND ANR. ... Respondents

Mr. T. George John, Advocate for the Applicant.
Mr. S.R. Rivankar, Public Prosecutor for the Respondents.

Coram:- M. S. SONAK, J.

Date:- 9th May 2018

P.C.:

Heard Mr. T. George John, the learned Counsel for the applicant and
Mr. S.R. Rivankar, the learned Public Prosecutor for the State.

2. The applicant who is charged for offences punishable under Sections 20(b)(ii)(A) and Section 22(c) of the Narcotics Drugs & Psychotropic Substances Rules, 1985 (NDPS Act) seeks bail. The allegation against the applicant is that he was found in possession of commercial quantity of LSD papers weighing 0.24 gms worth ₹70,000/- and 230 gms. of ganja valued at ₹35,000/-. In this case, till date, the CFSL Report is yet to be received in the context of the substances which were allegedly recovered from the

applicant and thereafter sent for chemical analysis. This means that as on date, there is no material on record to indicate that the substance allegedly recovered from the applicant was in fact LSD.

3. In a situation almost similar to the present one, this Court, in the case of **Mr. Serguis Victor Manka & Anr. V/s. State & Anr. [Criminal Application (Bail) No.75/2018]**, vide order dated 21/03/2018 enlarged the applicants in the said application on bail. This Court took cognizance of the provisions of Section 37 of the NDPS Act. It held that these provisions did not impose an absolute embargo on the powers of the Court to release the accused on bail, where the quantity seized is a commercial quantity. This Court observed *prima facie* that the absence of a CFSL report or evidence about testing with the help of a field kit, would show that there are reasonable grounds, at least at the stage at which the bail was applied for, for believing that the applicants are not guilty of such offence, within the meaning of Section 37 (1)(b)(ii) of the NDPS Act.

4. Applying the similar reasoning, discretion can be exercised in favour of the applicant and the applicant can be enlarged on bail, subject, no doubt to certain strict conditions.

5. In the result, this application is disposed off with the following order:

(i) The applicant shall be released on bail on execution of a PR bond in a sum of ₹50,000/- with two sureties in the like amount;

(ii) The applicant to furnish his local address alongwith necessary proof before the learned Special Court;

(iii) The applicant shall attend and mark his presence at the Calangute Police Station on every Saturday between 10.00 a.m. to 1.00 p.m. and further as and when required to so attend by the Investigating Officer;

(iv) The applicants shall cooperate with the investigating agency and shall not interfere or tamper with the prosecution witnesses or evidence in any manner.

(v) The applicants shall not commit any offence, while on bail;

(vi) In the event of breach of any of the conditions, the bail is liable to be cancelled.

(vii) Liberty to the prosecution to move for cancellation/modification on receipt of the report of the chemical analyzer.

(viii) The bail bonds to be furnished before the learned Special Judge.

6. All concerned to act on the basis of the authenticated copy of the order.

M. S. SONAK, J.

NH