

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL APPLICATION (BAIL) NO. 30 OF 2020**

Mr. Ezech Stephen Ugochukwu,
Aged 32 years,
N.O 123, Main Street, Wuse Zone 7,
Abuja Nigeria,
Nigerian National.
PRESENTLY LODGED AT JUDICIAL
CUSTODY, CENTRAL JAIL COLVALE
GOA.

... Applicant

Versus

1. STATE

The Police Inspector/
Officer Incharge Calangute
Police Station, Calangute,
Bardez, Goa.

2. The Public Prosecutor,
High Court of Bombay &
Goa, Panaji, Goa.

... Respondents

Shri K. Poulekar, Advocate for the Applicant.

Shri S. R. Rivankar, Public Prosecutor on behalf of the State.

Coram:- NUTAN D. SARDESSAI, J.**Date:- 03rd February, 2020.**

P.C.:

Heard Shri K.Poulekar, learned Advocate for the applicant and Shri S. R. Rivankar, learned Public Prosecutor on behalf of the State.

2. It has been the contention of Shri K. Poulekar, learned Advocate that the applicant was found in possession of 49 gms. of Charas and 10 gms. of Cocaine which are of small and variable quantity respectively of the stated drugs and subject to the possession, the rigours of Section 37 of the Act would not apply. He therefore prayed for the release of the applicant on bail.

3. Shri S. R. Rivankar, learned Public Prosecutor submitted that the applicant was earlier arrested for the possession of Charas and Ganja on earlier occasions though both in small quantity and is facing trial before the Court. He is a foreign national who has no fixed place of residence and there is every possibility that he may jump bail. Hence his application ought to be dismissed.

4. I have heard both Shri K. Poulekar learned Advocate for the applicant and Shri S. R. Rivankar, learned Public Prosecutor and have also considered the reply. Apparently the quantity of charas is small quantity of 49 gms. unlike cocaine which is a variable quantity and to which the rigours of

Section 37 of the Act do not apply. Without going into the merits of the case and without ignoring the fact that he had been earlier found in possession of Charas and Ganja though in small quantity, the right to bail cannot be denied to the applicant on that premise. His conduct can be monitored by imposing stringent conditions looking also to the fact that he is a foreign national. Therefore, i order the release of the applicant on bail on the following terms and conditions:-

- i. He shall be enlarged on bail on executing bail bonds in the amount of ₹50,000/- (Rupees Fifty Thousand Only) and furnishing a local surety in coextensive amount to the satisfaction of the learned Special Judge, Panaji.
- ii. He shall co-operate with the course of investigation, and shall not intimidate the witnesses.
- iii. He shall not leave the territorial waters of India and the State of Goa without the prior written permission of the Special Judge, Panaji.
- iv. He shall not involve himself in similar offences in the future.

5. In these terms the application stands disposed off.

6. Parties to act on the basis of the authenticated copy of this order.

NUTAN D. SARDESSAI, J.

MF/-