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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 24 OF 2022

IMRAN KHAN (PRESENTLY IN
JUDICIAL CUSTODY, CENTRAL JAIL,
COLVALE)

... APPLICANT

VS

UNION OF INDIA, NARCOTICS
CONTROL BUREAU

... RESPONDENT

Mr. M. Kapoor with Mr. M. Usgaonkar, Advocates for the
Applicant.

Mr. Pravin Faldessai, Deputy Solicitor General of India for
the Respondent.

CORAM:	G.S. KULKARNI, J.
RESERVED ON:	11 OCTOBER 2022
PRONOUNCED ON:	17 OCTOBER 2022

ORDER.

1. This is an application for bail under Section 439 of the Code of Criminal Procedure, 1973. The applicant is accused no. 2 in NDPS Special Case No. 41/2022, who is facing trial being charged for offences punishable under Sections 20(b)(ii)(A), 22(c) and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("the NDPS Act", for short) arising from FIR No. 183/2021 registered with the Pernem Police Station, North Goa. On the investigation of the case having concluded, a chargesheet was filed against the

applicant and other co-accused on 21 May 2022. The applicant was arrested in connection with the said FIR on 25 November, 2021.

2. The case of the prosecution is that on 25 November 2021 at 18:10 hours, a complaint against the applicant-Imran Khan (accused no. 2) and two others, namely, Shabab Khan (accused no. 1) and Niyazuddin (accused no. 3) came to be registered at the Pernem Police Station by PSI Vivek Halarnkar. The complaint was to the effect that on 25 November 2021 at 13:05 hours, the accused persons were caught red handed in illegal possession of narcotic drugs Ganja weighing 49.2 grams worth Rs.5,000/-; narcotic drugs and psychotropic substances suspected to be Ecstasy tablets weighing 15.7 grams worth Rs.1,50,000/- and MDMA weighing 19.10 grams worth Rs.1,90,000/- (all being drugs total worth of Rs.3,45,000/-), which were seized. PSI Vivek Halarnkar along with the raiding team and the panch witnesses had reached the spot, at 13:15 hours, namely, the house which was rented by accused no. 1 and the applicant, situated at Khind, Morjim. Upon searching the living room one brown colour shoulder bag kept on the sofa was found. Upon checking the said bag, it was found that there was one autopress transparent polythene packet containing in it grass like leafy substance suspected to be narcotic drug known as Ganja. Upon asking

Shabab Khan, Imran and Niyazuddin confirmed that said grass like leafy substance was stated to be Ganja. PSI Vivek Halarnkar took the small pinch of said grass like leafy substance suspected to be Ganja and tested through Narcotic detection kit supplied by Kwick Soft Solutions Private Limited. The test showed to be positive for Ganja. The autopress transparent polythene bags containing in it grass like leafy substance suspected to be Ganja was weighed on the electronic weighing scale was found to be weighing 49.2 grams. That upon further checking of the said bag another autopress transparent polythene packet was found which was containing in it total 33 tablets i.e. blue colour skull shaped tablet 04, blue colour hexagon shape 08 tablets, yellow colour hexagon shape 10 tablets, pink colour skull shape 02 tablets and pink colour rectangular shape 09 tablets suspected to be narcotic drugs Ecstasy. PSI Vivek Halarnkar took the small pinch of pink rectangular tablet and tested with Narcotic detection kit supplied by Kwick Soft Solutions Private Limited. The test showed to be positive for narcotic drugs known as Ecstasy. The said autopress transparent polythene bags containing in it total 33 tablets suspected to Narcotic drug Ecstasy was weighed on the electronic weighing scale and same was found to be weighing 15.7 grams. Upon further checking of the said bag, one more autopress transparent polythene packet was found containing in it 05

wrapped white polythene containing in it glass like crystals substance and 09 wrapped white polythene with red adhesive tape above it containing in it glass like crystals substance suspected to be narcotic drugs MDMA. PSI Vivek Halarnkar tested the sample through Narcotic detection kit supplied by Kwick Soft Solutions Private Limited. The test showed to be positive for narcotic drug known as MDMA. The glass like crystals substance suspected to be Narcotic drug MDMA were weighed on the electronic weighing scale and same was found to be weighing 19.10 grams. That the Panchanama commenced at 13:05 hours and concluded at 16:15 hours which was prepared in English as per the say of independent witnesses and explained to them in Konkani. It is the prosecution's case that a proper field test was conducted under a panchanama on which the signature of the panch witnesses was taken and such recovery was sealed.

3. It is the case of the prosecution that during interrogation, the statement of the said three accused persons was recorded. The applicant and the accused were arrested on 25 November 2021 at 18:10 hours. It was revealed from the statement of Shabab Khan (accused no. 1) that he had procured the contrabands from one Lucky Sharma (accused no. 4). Further, the statement of Mr. Gorakh @ Shekhar Poke, the owner of the premises from where

the applicant along with the co-accused was apprehended and the contrabands were seized, came to be recorded which, revealed that the said house was rented to Shabab Khan (accused no. 1) and Imran Khan (accused no. 2). He stated that he had procured a "tenant verification form" of Shabab Khan (accused no. 1) and Imran Khan (accused no. 2). It is the case of the prosecution that the occupancy of the said premises of the applicant and accused no. 1 from where the drugs were seized was clearly established.

4. It is the case of the prosecution that Niyazuddin (accused no. 3) in his statement stated that he is a permanent resident of Allahabad, U.P and about 5 to 6 years back he had moved to Bangalore and was working as a barber in a saloon. He also sold cosmetic goods to various saloons. In his statement recorded during interrogation, he stated that he had come to Goa on 24 November 2021 and stayed with Shabab Khan (accused no. 1) who was staying with the applicant, Imran Khan. He stated that he knew Shabab Khan (accused no. 1) since many years as he was visiting his saloon for a haircut. He stated that he consumes Ganja. He stated that he smoked Ganja at the room of Shabab Khan (accused no. 1). He stated that he does not know from where accused no. 1 got Ecstasy tablets and MDMA. He also stated that he visited Goa twice in November 2021.

5. The case of the prosecution is that the CDR analysis also confirms that Shabab Khan (accused no. 1) and Imran Khan (accused no. 2) were in regular contact with Niyazuddin (accused no. 3) and with accused nos. 4, 5 and 6.

6. It is the prosecution's case that the supplier Kunal Jignesh Sona (accused no. 5) in his statement recorded in the interrogation also stated that he had supplied the drugs as seized, to Lucky Sharma (accused no. 4), which were supplied to Shabab Khan (accused no. 1). It is the prosecution's case that there was a systematic chain in relation to the supply of the contraband, along with bank transfers from Shabab Khan (accused no. 1) to Lucky Sharma (accused no. 4).

7. The Call Detail Report (CDR) and contact between the accused persons has been verified as set out at page XXXI of the final report dated 21 May 2022 as filed before the Sessions Court.

8. It is the case of the prosecution that insofar as the applicant is concerned, he was present at the time when the raid was conducted when the contraband in question, were recovered and seized from the applicant's house when the applicant with Shabab Khan (accused no. 1) and Niyazuddin (accused no. 3) were the only persons present in the house at the time of seizure. It is also

the case of the prosecution that this is a case of interstate linkage wherein Shabab Khan (accused no. 1) is a resident of Bangalore, the applicant Imran Khan (accused no. 2) who is from New Delhi and Niyazuddin (accused no. 3) who is from Bangalore, who have come together and have conspired to procure and were possessed with the commercial quantity of the two contrabands.

9. It is the case of the prosecution that in the statement of Mr. Gorakh @ Shekhar Poke, the landlord, recorded during the course of investigation, he stated that the applicant along with Shabab Khan (accused no. 1) had met him at Khind Morjim and Shabab Khan had requested him to let out the ground floor room of his house on rent, which was agreed to be let out by Mr. Poke, for a monthly rent of Rs.15,000/- and since then, Shabab Khan (accused no. 1) and the applicant were staying together. Mr. Poke also stated that on 25 November 2021 in the morning at about 11:30 hours, he saw one male person in the room of Shabab Khan (accused no. 1) along with the applicant whom he believed to be their friend. He also stated that on the same day, when the Pernem police conducted the raid on the ground floor, they caught Shabab Khan (accused no. 1) and Imran Khan (accused no. 2) and one more person with the contraband.

10. It is also the case of the prosecution that in the statement of the applicant, he stated that he knew Shabab Khan (accused no. 2) since last 18 years. He has also stated that Shabab Khan (accused no. 1) had visited Delhi some time back, when he had called the applicant to Goa. He stated that he had come to Goa on 4 September 2021 by train as he suffered depression and anxiety issues. The applicant stated that he was staying at Morjim in a rented room of Shabab Khan (accused no. 1) and thereafter, he shifted to a rented room where the raid took place at Khind Morjim a month back. He also stated that Niyazuddin (accused no. 3) had come to their room on 24 November 2021 in the evening. He had arrived from Bangalore. He also stated that he also knew Niyazuddin (accused no. 3) as he is a friend of Shabab Khan (accused no. 1). He also stated that he had visited Shabab Khan's (accused no. 1) house four years back in Bangalore along with his wife. He has also stated in his statement that he smokes Ganja and smoked Ganja in the said room of Shabab Khan's (accused no. 1) room. He has also stated that he had no idea from where Shabab Khan (accused no. 1) purchased Ganja, Ecstasy tablets and MDMA.

11. The applicant was arrested on 25 November 2021 and was produced before the Court of Judicial Magistrate First Class on 26 November 2021 and thereafter, was remanded to judicial custody.

On 27 December 2021, a bail application was preferred by the applicant before the Court of Principal Sessions Judge, North Goa at Panaji, which was dismissed by an order passed by the learned Sessions Judge on 30 December 2021. It appears that Lucky Sharma (accused no. 4), Kunal Jignesh Sona (accused no. 5) and Mohammad Sohrab (accused no. 6) came to be implicated on the statements as made by Shabab Khan (accused no. 1). Thereafter, Lucky Sharma (accused no. 4) was arrested on 22 February 2022, Kunal Jignesh Sona was arrested on 1 April 2022 and Mohammad Sohrab was arrested on 4 May 2022. These accused are stated to be on bail. On 21 May 2022, as the final report/chargesheet has been filed, the accused are on trial.

12. On the above backdrop, the applicant has filed this application for bail contending that the applicant is in custody since 25 November 2021 and the same is no more required to be continued. Earlier, it was the applicant's case that the FSL/CA report in regard to the contraband recovered was not annexed to the chargesheet, also that, no application has been filed under Section 36(4) of the NDPS Act seeking extension of time. These were the contentions which were also raised in the earlier bail application filed on behalf of the applicant, which did not find acceptance by the learned Sessions Judge.

13. The next contention as urged on behalf of the applicant is that the applicant is innocent and he was trapped by the prosecution only for the purpose of extortion and that when the extortion demands were not fulfilled, he was framed in the false case. It is next contended that the applicant is a law abiding citizen and has not committed such crime or crime of a similar nature in the past and has been falsely implicated. It is next contended that no recovery of the alleged contrabands has been made from the person of the applicant and merely because the applicant was present during the raid would be of no consequence to implicate him. It is the applicant's cases that whatever contrabands were shown were planted to trap the applicant in a false case. It is the case of the applicant that no search warrant for conducting the search was obtained by the raiding party and that of the panch witnesses.

14. It is next contended by the applicant that when no recovery has either been made from the person or the premises and the alleged recovery was from a bag, kept on the sofa of the living room, there was no reason to connect the applicant to the alleged recovery. It is contended that a bare perusal of the chargesheet filed by the investigating officer, reveals that the best case as made out against the applicant was the alleged consumption of the

contraband, and hence, *prima facie*, the applicant is neither a dealer nor has procured the same, for any supply. It is hence contended that he is not a dealer and hence, the rigors of Section 37 of the NDPS Act are not be applicable in the present case. It is contended that it is relevant to consider that Lucky Sharma (accused no. 4), Mohammad Sohrab (accused no. 6) and Kunal Jignesh Sona (accused no. 5), who have been portrayed as dealers and arrested on the basis of the statements under Section 67 of the NDPS Act have been already granted bail. Therefore, the person against whom serious allegations were made have been enlarged on bail.

15. It is next contended that a bare perusal of the chargesheet would suggest that the applicant has neither procured or was even in contact with the alleged suppliers of the contraband supplied to Shabab Khan (accused no. 1) and that he had no knowledge of the said contraband being allegedly present on the premises as recovered by the said raiding party. It is next contended that the chargesheet shows role of only Shabab Khan (accused no. 1) in the procurement of the alleged contraband from the alleged suppliers, and there was no evidence to connect the applicant with the alleged recovery even presuming that the said recovery took place. It is contended that no useful purpose would be served in

keeping the applicant in judicial custody as he is no more required for the purpose of any further investigation. The applicant contends that he would undertake to cooperate at the trial as also with the investigating agency wherever required.

16. The learned Counsel for the applicant having urged the above contentions in support of the application, has further contended that this is a case where recovery is from the applicant's premises and not from the person of the applicant and hence, there is nothing on record to connect the applicant to the recovery. It is submitted that the case is now at the stage where chargesheet has been filed and as there is no material to connect the applicant to the recovery, as clearly seen from the chargesheet. It is submitted that mere presence of the applicant on the premises, when the raiding party had arrived and when the recovery of the contraband was made, is not relevant. He submits that on mere presence of the applicant, at the time of raid of the premises, the applicant cannot be subjected to any charge under the NDPS Act and for such reason, he needs to be released on bail. It is submitted that Section 29 of the NDPS Act is per se not applicable as there is no material whatsoever, not only to connect the applicant to any alleged offence, but also hold that the applicant had abetted and/or was involved in the criminal conspiracy as to

what would be understood from Section 29 of the NDPS Act. In support of his submissions the learned Counsel for the applicant has placed reliance on the decision of the Supreme Court in **Avtar Singh & Others Vs. State of Punjab**¹.

17. On the other hand, Mr. Faldessai, learned Deputy Solicitor General of India while opposing this bail application would submit that this is a clear case where the bail application is required to be rejected as there are reasonable grounds to believe that the applicant has committed the offences in question. He submits that even if the FSL/CA report is not available, there is sufficient material, which espouses a reasonable belief that the applicant has committed the offences in question. Mr. Faldessai has submitted that the culpability of the applicant is clear from the fact that he had rented the said house along with Shabab Khan (accused no. 1) which was clear from the declaration as made by the landlord as required to be submitted when a licensee or a tenant is inducted. It is his submission that from the landlord's statement as recorded by the investigating officer, it is clear that it is accused no. 1 and the applicant who had together met him on 25 October 2021 requesting his house to be let out to these accused and they were staying together in his house from where the contraband was recovered.

¹ (2002) 7 SCC 419

18. Mr. Faldessai has submitted that it is ex-facie untenable to believe the case of the applicant that he has not conspired with accused no. 1 and accused no. 3 in dealing with the contraband and more particularly, when the applicant has stated in his statement that he used to consume Ganja. Mr. Faldessai says that this indicates clear knowledge of the possession of the contraband. It is submitted that it is impossible to conceive that the applicant is not aware of the presence of the drugs as sought to be contended.

19. Mr. Faldessai submits that there is a clear presumption as seen from the materials in the chargesheet that the applicant was involved in commission of the offences, as it cannot be believed that the applicant who is stated to be from Delhi without any reasonable connection has joined accused no. 1 in Goa for such a long period from 4 September 2021 as stated by accused no. 1, in his statement, more so leaving his wife and a three years old minor child in Delhi on the ground that he was suffering from depression and anxiety.

20. Mr. Faldessai would next submit that once the house was rented to the applicant and contraband was found, the presumption under Section 35 read with Section 54 of the NDPS Act certainly becomes applicable. It is submitted that the presumption under Section 54 of the NDPS Act becomes clearly

applicable for the reason that the possession of the contraband in the given case need not be a physical possession, but can be constructive as it is seen from the surrounding circumstances that the applicant had sufficient knowledge and control over the recovered contraband. In support of the submission, Mr. Faldessai has placed reliance on the decision of the Supreme Court in **Megh Singh Vs. State of Punjab**².

21. Mr. Faldessai submits that when there are reasonable grounds to believe that the applicant is guilty of committing the offences in question, when there is more than *prima facie* material against the applicant which would indicate that the applicant is likely to commit any offence while on bail, he would thus urge that no case is made out for bail, considering the principles as would be applicable under Section 37 of the NDPS Act. It is accordingly submitted that the bail application be rejected.

22. I have heard the learned Counsel for the applicant and Mr. Faldessai for the respondent. I have gone through the relevant documents as placed on record which contains the chargesheet along with its annexures in NDPS Special Case No. 41/2022 against the applicant and the co-accused.

² (2003) 8 SCC 666

23. From the perusal of the statement of the landlord, Mr. Gorakh alias Shekhar Poke, it is seen that accused no. 1 and the applicant had approached him requesting for his house to be rented to the applicant and accused no. 1. After the same was let out in October 2021, both, the applicant and accused no. 1 were residing together. This apart, the applicant and accused no. 2 were residing together in Goa even earlier from September 2021. The applicant is from Delhi whereas accused no. 1 is from Bangalore, Karnataka. It is not the case of the applicant that he and accused no. 1 are employed together in any establishment in Goa. The case as seen from their statements is to the effect that both these accused knew each other. In fact, accused no. 1 does not have any employment in Goa nor does the applicant. The applicant is stated to be working in a spare parts stores in Delhi and is stated to have come to Goa as he had depression and anxiety issues. He has also stated in his statement as recorded by the investigating officer that he smokes Ganja, which he gets from accused no. 1. It is seen that on 25 November 2021 the raiding party raided the residence of the applicant and accused no. 1, when along with the applicant, accused no. 1 and accused no. 3 were present and from the bag which was kept on the sofa, the contrabands, namely, 49.2 grams of Ganja, 15.7 grams of Ecstasy tablets (commercial quantity) and 19.10 grams of MDMA was seized.

24. *Prima facie* in a situation of this nature, it is not possible to believe that the applicant is not connected to the recovery of the contraband so as to attract the offences under Section 20(b)(ii)(A), Section 22(c) and Section 29 of the NDPS Act.

25. Mr. Faldessai would be correct in his contention that *prima facie*, there are reasonable grounds for believing that the applicant is guilty of committing these offences as there is a presumption as perceived under Section 35 read with Section 54 of the NDPS Act that the applicant possessed such illicit articles, when such articles were found in complete control of nobody else other than the applicant, accused no. 1 and accused no. 2.

26. In such context, Mr. Faldessai would be correct in his submission in relying on the decision of the Supreme Court in **Megh Singh** (supra) wherein the Supreme Court has clearly held that possession is a polymorphous term which assumes different colours and different contexts. *Prima facie* there is sufficient presumption that the NDPS Act would provide, namely, that the applicant was conscious and in a culpable mental state, of the illicit possession of the contraband. The explanation below Section 35 that a culpable mental state would clearly include intention, motive and knowledge of a fact and belief in, or reason to believe a fact. Such provision becomes relevant and applicable in the

present circumstances as the applicant had not only a long association with accused no. 1, who is stated to have procured such commercial quantity of the illicit articles, which were found to be very much in control of the applicant as also, accused no. 1 and accused no. 3.

27. Further, the presumption under Section 54 is also clearly attracted for the reason that the applicant as also, accused no. 1 and accused no. 2 have failed to give a satisfactory account of possession of the contraband. It needs to be observed that when the raiding party discovered the contraband and following the field procedure namely, having conducted this field test, it is discovered that the material seized is contraband and the quantity of two such items is commercial quantity as recovered from the premises of the applicant and accused no. 1, wherein accused no. 3 was also present, it cannot be conceived that a satisfactory explanation/account cannot be provided by any of these accused. On the absence of any such explanations, the presumption under Section 35 read with Section 54 of the NDPS Act is attracted with full force.

28. It is thus difficult to accept the case of the applicant that there is no material on record, which would connect the applicant to the recovery of the illicit contraband, which is the only ground

which is being pressed into service. There is no substance in the contention that the recovery was not on the person or possession of the applicant as applying the principles under Section 35 read with Section 54 of the NDPS Act, but it would be required to be presumed that the applicant was in possession of the contraband as recovered.

29. Once the possession of the contraband was recovered in the manner as discussed above, the contention as urged on behalf of the applicant that the suppliers- accused nos. 4, 5 and 6 in their statements did not name the applicant, in my opinion, is not relevant in the context of the offences under Sections 20(b)(ii)(A), 22(c) and 29 of the NDPS Act and more particularly, in view of the clear provision of Section 29 of the NDPS Act. It is quite clear that the applicant is not a person who was new to the contraband as he himself is consuming the contraband. There also does not appear to be any other purpose for the applicant to get associated with accused no. 1 and accused no. 3 in Goa and with accused no. 1, for such a long period without employment or without any reasonable cause, except for the accused dealing with the contraband as seen from a careful examination of the material annexed to the chargesheet. It is thus not possible to believe the case that the applicant has come to Goa to be associated with accused no. 1 on

account of depression and anxiety. In fact, there is reason to believe that the applicant appears to be in association with accused no. 1 in dealing with the contraband, attracting the provision of Section 29 of the NDPS Act.

30. In my opinion, reliance placed on behalf of the applicant on the decision in **Avtar Singh's** case (supra) to contend that the applicant cannot be said to be found in possession is totally untenable. The facts of such case are completely in variance to the facts in the present case inasmuch as the appellants in such case were travelling in a truck and the appellants were sitting on the bags placed in such truck. In any case, the findings which formed the basis of the decision were recorded on the basis of the evidence at the trial, which did not show any conscious possession.

31. It is also required to be noted that in the present case, accused no. 1 and accused no. 3 are not differently placed. Accused no. 1 and accused no. 3 are in custody.

32. It is useful to refer to the decision of the Supreme Court in **State of Kerala & Others Vs. Rajesh & Others**³, wherein the Supreme Court considering the scheme of Section 37 of the NDPS Act has held that Section 37 of the NDPS Act commences with a

³ (2020) 12 SCC 122

non-obstante clause. It was observed that the operative part of Section 37 would prescribe the enlargement on bail to any person accused of commission of an offence under the NDPS Act, unless the twin conditions are satisfied. Firstly, the condition that the prosecution must be given an opportunity to oppose the application and secondly, that the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence. It was observed that if either of these two conditions are not satisfied, then the accused cannot be released on bail. The latter condition is not satisfied in the present case.

33. The Supreme Court in **Union of India Vs. Md. Nawaz Khan**⁴, which was also a case where the contraband was recovered from two polythene packets hidden under a place where the wiper was connected to the front bonnet of the car and not actually found on the person of the accused who was travelling along with other co-accused in the car, it was held that the bail granted by the High Court was required to be cancelled as the High Court had overlooked crucial requirements and glossed over circumstances which were material to the issue, as to whether case for grant of bail was established. The Supreme Court held that the tests which the High Court and the Supreme Court would be required to apply are as to whether there are reasonable grounds to believe that the

⁴ (2021) 10 SCC 100

accused has not committed an offence and whether he is likely to commit any offence while on bail. It was observed that given the seriousness of the offences, punishable under the NDPS Act and in order to curb the menace of drug-trafficking in the Country, stringent parameters for grant of bail under the NDPS Act have been prescribed. It was further held that conscious possession would include the knowledge of possession of contraband. Further, referring to the decision in **Union of India Vs. Rattan Mullik**⁵ it was held that a finding of absence of possession of the contraband on the person would not absolve the level of the scrutiny required under Section 37(1)(b)(ii) of the NDPS Act.

34. Applying the above principles to the facts of the present case as noted above, in my opinion, there are certainly reasonable grounds to believe that the applicant was in conscious possession of the contraband as seized. Considering the complexion of the case, which *prima facie* involves inter State linkage, in my opinion, it would at all not be appropriate to release the applicant on bail at such stage of the proceedings before the learned Special Judge.

35. As a result of the above discussion, the present application stands rejected.

G.S. KULKARNI, J.

⁵ (2009) 2 SCC 624

17 October 2022

ORDER CONTINUED

36. After the above order was pronounced, Mr. Faldessai, learned Deputy Solicitor General of India, has placed on record, "Examination report of the Goa State Forensic Science Laboratory", dated 6 October, 2022. The report is in respect of all three contrabands which were sent for chemical analysis. He states that the contrabands recovered on the chemical analysis are found to be variable quantity, which is also set out in the chart submitted by Mr. Faldessai, which needs to be noted. The difference between quantity specification of the drugs in regard to small and commercial quantity is also set out in the chart. The said chart reads thus :

Sl. No.	Contra band	Marking	Drugs Confirmed as	Quantity
1	Ganja	Ex-A-Sample-I	Ganja	Weight of sample without polythene packet 23.0971 gms.
2	Ecstasy	Ex-B-Sample-I	Mixture of Methamphetamine & Amphetamine	4.7243 gms. without packing material
			Amphetamine	10.0822 gms. without packing material
3	MDMA	Ex-C-Sample-I	Methamphetamine	All crystalline substance with wrappers weighing to be 18.1004 gms.

Sl. No.	Contraband	Small Quantity	Commercial Quantity
1	Ganja	1 kg.	20 kgs.
2	Ecstasy	0.5 gms.	10 gms.
3	MDMA	0.5 gms.	10 gms.
4	Amphetamine	2 gms.	50 gms.
5	Methamphetamine	2 gms.	50 gms.

37. It is submitted that the recovery is certainly of a quantity which varies between small and commercial quantity as seen from such chart. Hence, the applicant would be given the benefit of such report.

38. On the perusal of the report dated 6 October 2022, it appears that the net weight of the first item, Ganja (Cannabis) is 22.1016 grams, which is not a commercial quantity. Insofar as Ecstasy tablets are concerned, the report states that the drug confirmed in the said contraband is a mixture of amphetamine and methamphetamine and the net weight is 4.7243 grams and 10.0822 grams. Insofar as MDMA is concerned, methamphetamine drug is confirmed and net weight of the same is 18.1004 grams. Thus, it is seen from the report that the total quantity of all the said contrabands is not a commercial quantity.

39. In these circumstances and in view of the report, Mr. Faldessai has fairly stated that this is a case where the recovery is not of a commercial quantity and the Court would accordingly take an appropriate view of the matter.

40. Considering such material as placed before the Court, in my opinion, although, the conclusion was to reject the bail application, however, considering this report which is tendered by Mr. Faldessai, in my opinion, the applicant–accused would be required to be enlarged on bail. Hence, the following order :

O R D E R

- (i) The applicant–Imran Khan shall be enlarged on bail on furnishing a PR bond in the sum of Rs.50,000/- with one or two sureties of the like amount to the satisfaction of the Special Court.
- (ii) The applicant is directed not to leave the State of Goa without the prior permission of the Special Court.
- (iii) The applicant shall also deposit his passport and also furnish an affidavit before the Special Court, giving the details of his correct address, Pan Card, Aadhaar Card in the State of Goa as also, the permanent address, with all particulars including phone numbers of his wife and other relatives which be verified by the concerned Investigating Officer. Affidavit to be filed, before the applicant is so released from the custody.
- (iv) Disposed of in the above terms.

G.S. KULKARNI, J.