

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL APPLICATION BAIL NO. 69 OF 2021

IN

CRIMINAL APPEAL NO. 725 OF 2021-F

MONDAY FELIX ODEDE, PRESENTLY
LODGED AT COLVALE MODERN JAIL,
COLVALE.

...Applicant.

VS

STATE AS REPRESENTED BY THE
OFFICER IN CHARGE, ANTI NARCOTIC
CELL, PANAJI AND ANR.

...Respondents.

Ms. C. Collasso, Advocate for the applicant.

Mr. S. G. Bhobe, Public Prosecutor for the respondents.

CORAM: G. S. KULKARNI, J.
DATE: 5 SEPTEMBER 2022.

P.C.:

1. Criminal Appeal in which the present bail application was filed has already been admitted.

2. By an order dated 22.12.2021, a co-ordinate Bench of this Court (Manish Pitale,J) allowed the bail application directing that the applicant be released on bail on furnishing personal bond of Rs.1,00,000/- and furnishing surety in the like amount to the satisfaction of the Registrar of this Court along with other conditions. However, today the subject matter of discussion is condition nos. (b), (c) and (d) of the said order which read

thus:-

- 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 copy thereof before this 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.*

Emphasis supplied.

3. The applicant/appellant has contended that the applicant is ready to bear the expenses of police escort so that the applicant/appellant can visit New Delhi where the Nigerian embassy is situated, so that he can make an application for issuance of a passport, so that the conditions as directed in the order granting bail can be complied with.

4. Responding to the said contention Mr. S. G. Bhobe, learned Public Prosecutor has submitted that there are other Nigerian nationals who are

similarly circumstanced, hence, it would be difficult for the State to provide escort to each of such persons if similar request are received. He would hence submit that there are larger issues involved. It is pointed out at the bar that earlier when there were such number of visa applicants officers of the Nigerian Embassy had visited jails in Goa and had undertaken appropriate measures to complete the formalities with regard to the issuance of passports of Nigerian citizens who were lodged in prison either as undertrials or on conviction. On the larger issues Mr. Bhobe would be correct in his contention that a situation cannot be countenanced that there are large number of foreign nationals either in custody or otherwise in the State, however, they are without a passport issued by the country of their origin. Mr. Bhobe would submit that the State Government for such larger issues may be required to consult the Central Government to take up issue with the Nigerian Embassy. It is for the State Government to take appropriate decision in that regard. However pending any such decision on the part of the State Government, cannot preclude the relief the applicant is seeking in the present proceedings, as the case before this Court is only of the applicant, who is intending to avail a passport to be issued in his favour by the Nigerian Embassy, and who also has the adequate resources to do so.

5. Mr. Bhobe, would accordingly take instructions as to in what manner assistance can be provided to the applicant, at the cost of the

applicant, so that the applicant is permitted to comply with the conditions as imposed by this Court while granting him bail. Let the instructions be placed on record on or before the adjourned date of hearing.

6. Stand over to 19.9.2022.

G. S. KULKARNI,J.