

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3695 OF 2021

Romeo Larry	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Mr.Taraq Sayed a/w Ashwini Achari i/b Advait Tamhankar for the Applicant.

Ms.Veera Shinde, APP for the State.

API Wanganekar, ATS Thane present.

CORAM : BHARATI DANGRE, J

DATE : 7th OCTOBER, 2022.

P.C.

1] As directed by earlier order, the learned APP has placed on record copy of complaint in the previous CR registered against the Applicant in the form of CR No.92/2015, registered with Azad Maidan Unit, where the Applicant is alleged to have been found in possession of 50 Gram cocaine . It is informed that the trial in the said case is in progress.

2] The learned counsel for the Applicant has placed on record the order releasing him on bail from the said CR dated 05.03.2015, where the Special Judge for NDPS has recorded that, after filing of the charge-sheet trial will take its own time and there is no reason to detain the accused till conclusion of trial. It is also recorded that passport of the accused is already seized in earlier case, in which he is acquitted.

3] The learned APP vehemently submits that while on bail in the earlier CR, the Applicant has indulged himself in the present offence, despite the condition imposed that he shall not do so. She also submits that the applicant is a Nigerian citizen and there is every likelihood that he would flee from the country and will not be available for trial.

She would also submit that in the very said CR Section 14 of the Foreigners Act, 1946, has been invoked since the Applicant is also accused of forging the passport.

4] It can be seen that in the offence registered earlier, the Applicant is already released on bail. The trial is not concluded, despite 7 years from registration of the offence.

In the present case, since the learned APP has already conceded to the fact that the substance recovered from the Applicant on analysis is found to be a controlled substance 'Ephedrine' and he would face charges under Section 9A read with 25A, which would warrant imprisonment upto 10 years and some fine. He came to be arrested in the present CR on 23.10.2020 and more than two years have expired since his incarceration and charge is not framed till date.

Merely on the ground that he has antecedents for which he is being tried, he cannot be denuded of his liberty since though a foreign national he enjoy the protection of Article 21 of the Constitution of India.

5] The passport of the Applicant is already seized and there can be no apprehension, that he will flee from the course of justice and on imposing appropriate condition of regular attendance with the Police Station, he deserve to be released on bail.

6] The observations made above are prima facie in nature and limited for the purpose of determination of the present Application and the learned Judge trying the Applicant for the offences, with which he is charged, shall not in any manner be influenced by the above order.

Hence, the following order :

ORDER

- (a) Application is allowed.
- (b) Applicant – Romeo Larry shall be released on bail in connection with C.R.No.6 of 2020 registered with ATS Thane Unit, on furnishing P.R. bond to the extent of Rs.50,000/- with one or more sureties of the like amount.
- (c) The applicant shall report to ATS, Thane Unit on every Monday of every month between 10.00 a.m. to 12.00 noon.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (e) The Applicant shall provide his address where he would be residing after being released on bail and to provide his contact details and keep the officer intimated about any change therein.
- (f) The Applicant shall not travel outside Mumbai/ Navi Mumbai, without prior permission of the Special Judge.
- (g) The Applicant shall regularly attend trial, on every date, unless exempted.

[BHARATI DANGRE, J]