



Meena

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.68 OF 2022

UNION OF INDIA, NARCOTICS CONTROL
BUREAU, THR. INTELLIGENCE OFFICER,
AJAY KUMAR

... PETITIONER

Versus

NOUMAAN SABERY

... RESPONDENT

Mr. Purushottam Karpe, Special Public Prosecutor for the Petitioner.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 16th July, 2024

P.C.:

1. Heard Mr. P. Karpe, learned Special Public Prosecutor for the Petitioner.
2. The present petition is filed challenging the order of the NDPS Court dated 22/12/2021 granting bail to the Respondent only on the ground that by that time there was no report received from the CFSL confirming that the contraband is the narcotic drug or substance.
3. Mr. Karpe submits that subsequently report from CFSL, Pune was received stating that the substance recovered from the accused contained LSD and MDMA. Mr. Karpe submits that the quantity which was recovered from the Accused is commercial in nature and

the bail was granted only on the ground that no report was received.

4. Mr. Karpe would submit that the finding of the learned trial Court in paragraph 15 is only on the ground that at the stage of granting bail, there was no material to show that the contraband was, in fact, a banned drug or substance.

5. He submits that now the report has been received disclosing that it is a commercial quantity of banned drug or substance, such observation needs to be revived.

6. Perusal of the impugned order shows that bail was granted only on the ground that there is no report from the CFSL confirming that it is a banned drug or psychotropic substance. Admittedly, at the time of granting bail the report of CFSL was not available which was received somewhere in February 2022 i.e. after the order was passed. Thus the Petitioner ought to have moved the learned trial Court for cancellation of bail relying upon such report.

7. Liberty is granted to the Petitioner to approach the trial Court on the basis of the report received from CFSL, Pune seeking cancellation of bail. If such application is filed, the learned trial Court shall decide it on its own merit and as expeditiously as possible. Needless to mention that opportunity is required to be given to the Respondent /Accused before deciding such an application.

8. The petition stands disposed of with liberty to the Petitioner to approach the trial Court for cancellation of bail in view of the receipt of the report from CFSL, Pune.

9. Proceeding stands disposed of in the above terms.

BHARAT P. DESHPANDE, J.