



Jose

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION (MAIN) NO.7 OF 2026

State of Goa
 Through Police Sub- Inspector/
 Investigation Officer
 At Mapusa Police Station. ... Applicant.

Versus

Ajay Gupta
 S/ Ram Swaproop Gupta, aged 55
 R/o 12A, Tatvarn Villa, Z Block, sector-48
 South City —II, Gurugram
 Haryana -122018. ... Respondent.

Ms Swati Kamat Wagh, Additional Public Prosecutor for the Applicant.
 Mr Madhav Khurana, Senior Advocate with Mr Rohan Dessai, Mr Malak Bhatt (through VC), Ms Ashwini Bandekar, Mr Amit Badesra, Mr Nishikant Raut Dessai, Mr Ashay Priolkar and Ms Arya Parrikar, Advocates for the Respondent.

CORAM:	DR. NEELA GOKHALE, J.
RESERVED ON:	29th July 2026
PRONOUNCED ON:	18th August 2026

JUDGMENT:

1. By this application, the Applicant seeks to quash and set aside the order dated 7th February 2026, passed by the learned Judicial Magistrate First Class, 'C' Court, Mapusa-Goa ('JMFC'), in Bail Application No. 258/2025/B, whereby the JMFC enlarged the Respondent on bail subject to certain conditions.

2. In brief, the facts of the case are that 'Birch by Romeo Lane', a restaurant-cum-club ('the restaurant') at Arpora Village, Bardez, Goa, was

owned and operated by 'Being GS Hospitality LLP' ('the firm'). The Respondent is a partner in the firm, along with Mr Gaurav Luthra and Mr Saurabh Luthra. The restaurant is situated in the middle of a salt pan and comprises a ground floor and a deck floor. The restaurant itself is on the deck floor, while the kitchen is on the ground floor. The restaurant commenced operations in February 2024.

3. On 6th December 2025, a fire broke out at the restaurant during a dance event. It is alleged that cold pyro fireworks inside the restaurant caused the fire. The restaurant's roof caught fire, and the flames rapidly spread throughout the building. The roof and the interior deck floor were made of wood, plastic, and dry grass. It is alleged that the restaurant had no fire safety equipment and only one narrow entry and exit. Twenty-two men and three women, comprising guests and staff of the restaurant, were unable to escape and perished. Several others were injured. FIR No.154/2025, dated 7th December 2025, was registered at Anjuna Police Station.

4. During the investigation of the Anjuna FIR, it was revealed that the Respondent, in connivance with his partners, forged a No Objection Certificate ('NOC') purportedly issued by the Health Officer, Primary Health Centre, Candolim. The certificate bore a printed digital signature of a Health Officer. The NOC was submitted to the Excise Department, Mapusa, to obtain the excise licence necessary to operate the restaurant/club. Upon investigation, the Health Department confirmed that it had not issued any such NOC to the Respondent, his partners, or the establishment. Further

investigations revealed that the forged NOC was, in fact, issued to one Mrs Esmeralda Silveira, the proprietor of a bar and restaurant at Calangute known as 'Sportsmen Tavern', and bears the date 27th January 2024. It is alleged that the Respondent, in conspiracy with his partners, altered or manipulated this NOC to represent it as an NOC issued to their establishment. Dr Roshan Nazareth, Health Officer, Primary Health Centre, Candolim, made a complaint dated 13th December 2025. Pursuant to this complaint, FIR No.154/2025, dated 17th December 2025, for offences punishable under Sections 336(2), 336(3), 338, 340(2), 318(4) r/w Section 3(5) of the BNS 2023, was registered with Mapusa Police Station, North Goa. The Respondent is arrayed as one of the main accused.

5. The Respondent was arrested on 23rd December 2025 and brought to Goa on a transfer warrant from Delhi. He was remanded to judicial custody on 3rd January 2026. The Respondent filed a bail application before the JMFC. By order dated 7th February 2026, he was released on bail on certain conditions. It is this order that is assailed by the Applicant-State.

6. Ms Swati Kamat Wagh, learned Additional Public Prosecutor, appeared for the State and Mr Madhav Khurana, learned Senior Advocate, represented the Respondent.

7. The grounds of challenge by the State are as under: -

- i. The JMFC failed to appreciate that the health NOC constitutes valuable security, and that Section 338 of the BNS provides for

punishment of life imprisonment or imprisonment for a term that may extend to 10 years, and a fine.

- ii. The JMFC erroneously held that Courts ordinarily and liberally grant bail to persons alleged to have committed offences punishable up to 7 years.
- iii. The charge sheet was not filed at the time of grant of bail; however, relevant documents were tendered before the Court. The original forged NOC has not yet been recovered, and the Police are required to confront the Respondent.
- iv. The forgery was not a mere clerical error but a well-planned conspiracy involving the fabrication of Government stamps and signatures. The forged NOC directly contributed to the public safety hazard that resulted in 25 deaths.
- v. The Respondent is a resident of Haryana and an influential businessman. He is likely to tamper with digital evidence and to influence witnesses.
- vi. The JMFC failed to consider the gravity of the offence, the material placed before the Court, and the role of the accused in the crime.
- vii. At the time of the hearing of the bail application, the JMFC conducted a mini-trial and pronounced an order that the Respondent was not the maker of the forged document.

- viii. The JMFC erred in holding that there was no material to implicate the Respondent in the offence. The JMFC overlooked all the material placed before it, which demonstrates the Respondent's direct managerial and executive control over the commission of the offence.
- ix. The JMFC failed to consider that forging a Health Department NOC undermines public trust in statutory certification systems. Only on the ground that the NOC does not constitute a valuable security is the Respondent enlarged on bail, without adverting to the fact that all three partners were equally involved in procuring the forged NOC.
- x. It is also alleged that the construction of the restaurant itself was unauthorised. The firm had taken the premises on a leave-and-licence basis from the original owner, Mr Surendra Kumar Khosla. The property, being situated in a salt pan, did not have a house number. Accordingly, the leave and licence agreement did not reflect a house number. Without a house number, the establishment could not be awarded the requisite licences. Accordingly, another copy of the licence agreement was prepared, inserting a house number that belonged to another property owned by Mr Khosla. Based on this borrowed house number, a trade licence was procured from the Village Panchayat; the health NOC was forged with the fictitious house number; and the Excise licence was procured based

on forged documents. The restaurant was being operated based on the aforesaid documents. The Applicant contends that the tragedy occurred because the restaurant was operated in an unauthorised construction, without valid licences, and that innocent and unsuspecting guests and staff lost their lives. In this backdrop, the JMFC failed to appreciate the gravity of the offence while enlarging the Respondent on bail.

8. Ms Kamat submitted that the charge sheet was not on record at the time of hearing the bail application. The charge sheet was filed on 30th June 2026. However, all relevant documents collected and collated by the Investigating Officer at that time were placed before the JMFC for consideration. She brought to my notice the statement of the Complainant, namely the Health Officer, whose signature appeared on the NOC; the statement of the Excise Officer, who stated that the NOC from the Panchayat, NOC from the Health Department, the owner of the premises, and the Police verification, etc., were documents necessary to obtain the Excise licence. The statements of Mr Ramdas Govekar, Guest Service Supervisor; Mahesh Korgaonkar, Superintendent of Excise at the relevant time; Mohammed Abid Aslam, Accountant for the restaurant; Pramod Naik, Officer at Excise Commission; Shrikant Pednekar, Assistant Commissioner of Excise; Madhumita Nayak, Notary; Ravi Verma, Supervisor; Rakesh Gupta, Director of another resort at Assagao; Deepak Sharma, Beverage Manager; etc., were also brought to my notice by Ms Kamat. According to Ms Kamat, all these

statements clearly point to the complicity of the Respondent in the present offence. She submitted that both the FIRs relating to the forgery and the fire are connected, one leading to the other. The JMFC failed to appreciate the gravity of the offence and the role of the Respondent in the offence while enlarging him on bail.

9. Ms Kamat further submitted that the Respondent's conduct in taking flight immediately after the fire speaks for itself. He was untraceable after leaving Goa. The Respondent also switched off his mobile phone and communicated with his wife and others on his driver's phone. The driver's statement is on record. This clearly indicates the Respondent's intent to avoid investigation. The JMFC failed to take these factors into account while granting bail. The impugned order is perverse. Hence, Ms Kamat prayed that the impugned order granting bail to the Respondent be set aside.

10. Ms Kamat relied on the following judgments:

- i. *Centrum Financial Services Ltd v. State (NCT of Delhi)*¹;
- ii. *Virupakshappa Gouda v. State of Karnataka*²;
- iii. *Kushal Singh @ Kushal Samrat v. State of Himachal Pradesh*³;
- iv. *Durgadas Tulsiram Sood v. State of Maharashtra*⁴;
- v. *Ratanchand Radhakisondas v. State of Maharashtra*⁵
- vi. *Ishwarlal Girdharilal Parekh v. State of Maharashtra and ors.*⁶

11. Mr Khurana, learned Counsel appearing for the Respondent, submitted

1 (2022) 13 SCC 286.

2 (2017) 5 SCC 406.

3 2026 SCC OnLine HP 964.

4 AIR 1955 Bom 82 : 1955 CRI. L. J. 289.

5 1959 SCC OnLine Bom 23.

6 1968 SCC OnLine SC 47.

as follows:

- i. The State has selectively sought cancellation of bail of the Respondent. The Respondent is a sleeping partner holding only a 10% share in the firm; he had no role to play in the day-to-day affairs of the restaurant.
- ii. A Health NOC by itself does not create an indefeasible right to obtain an Excise licence. Under the relevant Rules, grant of an Excise licence is based on independent considerations.
- iii. In response to Ms Kamat's submission regarding the Respondent fleeing to Delhi immediately after the fire, he said that the Respondent was already suffering from a prior medical condition for which he had to be admitted to the hospital. The Respondent had no intent to run away.
- iv. Nothing in the charge sheet remotely connects the Respondent with the offence.
- v. Mr Khurana also relied on various Supreme Court decisions to buttress his argument that an accused cannot be punished by refusing bail during the pendency of a trial.
- vi. The Respondent has not violated any bail condition to date.
- vii. No supervening circumstances warrant the order granting bail.
- viii. Since the charge sheet has already been filed, there is no

requirement for custodial interrogation. In these circumstances, he has defended the impugned order.

12. He placed reliance on the following decisions:

- i. *Bhagirathsing v. State of Gujarat*⁷;
- ii. *Kailash Kumar v. State of HP*⁸;
- iii. *Sheila Sebastian v. R. Jawaharaj*⁹;
- iv. *Shiv Kumar Jatia v. State (NCT of Delhi)*¹⁰
- v. *Santosh v. State of Maharashtra*¹¹

13. Before delving into the merits of the case, it is necessary to discuss the law relating to the reversal of bail. In *Shobha Namdev Sonavane v. Samadhan Bajirao Sonavane and Others*¹², the Supreme Court observed that an order granting bail can be interfered with by the superior Court, considering the nature and gravity of the offences and if the order granting bail ignores relevant material on record or is based on extraneous considerations.

14. In *Shabeen Ahmed v. State of Uttar Pradesh and Another*¹³, the Supreme Court, relying on its earlier judgment in the case of *Ajwar v. Waseem*¹⁴, held as under:

“18. A superficial application of bail parameters not only undermines the gravity of the offence itself but also risks weakening public faith in the judiciary's resolve to combat the

7 (1984) 1 SCC 284.

8 2025 SCC OnLine SC 3055.

9 (2018) 7 SCC 581.

10 (2019) 17 SCC 193.

11 (2017) 9 SCC 714.

12 2026 SCC OnLine SC 291 : 2026 INSC 181.

13 (2025) 4 SCC 172.

14 (2024) 10 SCC 768.

menace of dowry deaths. It is this very perception of justice, both within and outside the courtroom, that courts must safeguard, lest we risk normalising a crime that continues to claim numerous innocent lives. These observations regarding grant of bail in grievous crimes were thoroughly dealt with by this Court in Ajwar v. Waseem [Ajwar v. Waseem, (2024) 10 SCC 768 : (2025) 1 SCC (Cri) 320] in the following paras : (SCC pp. 783-84, paras 26-28)

“26. While considering as to whether bail ought to be granted in a matter involving a serious criminal offence, the Court must consider relevant factors like the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the role attributed to the accused, the criminal antecedents of the accused, the probability of tampering of the witnesses and repeating the offence, if the accused are released on bail, the likelihood of the accused being unavailable in the event bail is granted, the possibility of obstructing the proceedings and evading the courts of justice and the overall desirability of releasing the accused on bail. [Refer : Chaman Lal v. State of U.P. [Chaman Lal v. State of U.P., (2004) 7 SCC 525 : 2004 SCC (Cri) 1974]; Kalyan Chandra Sarkar v. Rajesh Ranjan [Kalyan Chandra Sarkar v. Rajesh Ranjan, (2004) 7 SCC 528 : 2004 SCC (Cri) 1977] ; Masroor v. State of U.P. [Masroor v. State of U.P., (2009) 14 SCC 286 : (2010) 1 SCC (Cri) 1368] ; Prasanta Kumar Sarkar v. Ashis Chatterjee [Prasanta Kumar Sarkar v. Ashis Chatterjee, (2010) 14 SCC 496 : (2011) 3 SCC (Cri) 765] ; Neeru Yadav v. State of U.P. [Neeru Yadav v. State of U.P., (2014) 16 SCC 508 : (2015) 3 SCC (Cri) 527] ; Anil Kumar Yadav v. State (NCT of Delhi) [Anil Kumar Yadav v. State (NCT of Delhi), (2018) 12 SCC 129 : (2018) 3 SCC (Cri) 425] ; Mahipal v. Rajesh Kumar [Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558].

*27. It is equally well settled that bail once granted, ought not to be cancelled in a mechanical manner. **However, an unreasoned or perverse order of bail is always open to interference by the superior court. If there are serious allegations against the accused, even if he has not misused the bail granted to him, such an order can be cancelled by the same Court that has granted the bail. Bail can also be revoked by a superior court if it transpires that the courts below have ignored the relevant material available on record or not***

looked into the gravity of the offence or the impact on the society resulting in such an order.....”

[Emphasis supplied]”

15. Also, the Supreme Court in the case of *Victim ‘X’ v. State of Bihar & Anr.*¹⁵, while setting aside the order granting bail to a person accused of committing grave offences, observed as follows:

“24. It is trite that bail once granted should not be cancelled ordinarily, but where the facts are so grave that they shake the conscience of the Court; and where the release of the accused on bail would have an adverse impact on the society, the Courts are not powerless and are expected to exercise jurisdiction conferred by law to cancel such bail orders so as to subserve the ends of justice. The present one is precisely a case of such nature.”

16. Applying the aforesaid settled principles to the facts of the present case, I now proceed to examine whether the reasons assigned by the JMFC can withstand judicial scrutiny.

17. The JMFC has assigned the following reasons for grant of bail to the Respondent/Accused.

- i. Apart from Section 338 of the BNS, all the offences invoked against the Respondent carry a punishment only up to 7 years. Courts are generally liberal in granting bail in offences punishable up to 7 years.
- ii. The Prosecution has not produced any material to show that the Respondent is the maker of the document. Whether the Respondent is the maker of the document, based on his being a partner in the

15 2025 INSC 877.

firm, shall be decided at trial. Hence, the Respondent is entitled to bail.

- iii. There is no connection between the fire offence registered at Anjuna Police Station and the present offence. The Anjuna incident occurred in December 2025, while the alleged forgery is from 2023-2024. Hence, the offences are distinct. The present offence cannot be said to be grave.
- iv. There is no material/direct evidence to indicate that the Respondent uploaded the documents necessary to obtain an Excise licence, including the forged NOC.
- v. The forged NOC is issued by the Health Department only from the sanitary point of view to run a restaurant and has nothing to do with the Excise licence.
- vi. The offence does not involve a valuable security.

18. At the outset, it is pertinent to note that the FIR registered at Anjuna Police Station against the Respondent and his partners in the firm is directly connected to the present FIR. The *modus operandi* employed by the Respondent and his partners was to fabricate documents, including appropriating a house number unrelated to the restaurant and representing it as the restaurant's house number to procure a trade licence from the Village Panchayat. This licence, in turn, was used to obtain other licences necessary to operate the restaurant and sell alcohol to guests. The Health NOC had to be

forged, as, without a genuine house number, the Department would not have issued it. To believe and hold that this NOC is only required from a sanitary point of view to run a restaurant is sheer simplicity on the part of the JMFC.

19. The NOC is crucial for obtaining the Excise licence required to sell liquor. Additionally, an NOC from the Village Panchayat, along with police verification, is required for the licence. The concerned department has not issued any fire clearance. The health NOC is a key document that initiates the process for obtaining further licences to operate the establishment. Operating a club or restaurant without proper licences, selling liquor without approval, ignoring construction norms, lacking adequate entry and exit points for guests, and using firecrackers inside the restaurant and on the deck posed significant safety risks. Without valid licences, the operations were legally and safety-wise compromised. The fire incident, which left 25 people dead and many others injured, is a direct result of the alleged offence. *Prima facie*, this act can be said to have been done with the knowledge that it was likely to injure and harm guests and others in the restaurant. This FIR is thus directly connected with the FIR relating to the fire incident.

20. The JMFC has brushed off this direct connection only based on the dates on which these two offences were alleged to have been committed. The JMFC holds that since the fire incident took place in December 2025 and the forgery allegedly took place in 2023-2024, there is no connection between them and they are distinct. The JMFC overlooked the fact that the forgery came to light during the investigation of the fire incident, thereby establishing

a clear causal connection between the offences. The offence may appear innocuous at first blush, but when connected to the fire incident, its gravity cannot be undermined. The JMFC's observation that the two FIRs are distinct and not connected is incorrect.

21. The JMFC's finding that there is no material indicating the Respondent as the maker of the NOC is also flawed. There are numerous documents on record establishing the Respondent's complicity. The statement of Mr Ramdas Govekar, the Guest Service Supervisor at one of the hotels in Goa, recorded by the Police, directly links the Respondent to preparing documents to start the restaurant. He stated that during 2017-2018 he became acquainted with Mr Surendra Khosla, the owner of Maizons Lake View Hotel. Mr Khosla leased the premises to the Respondent herein. The Respondent approached Mr Govekar to assist in procuring a trade licence. The entire house number fiasco was discussed and was within the Respondent's knowledge. Mr Govekar also stated that there was a WhatsApp group titled 'FSSAI Registration Arpora'. This group comprised the Respondent, his partners and others involved in the documentation process. The group reflects discussions on how the documentation was to be prepared.

22. The statement of Mr Mohammed Abid Islam, who works for a food studio partnership firm also owned by the Respondent's partners, corroborates Mr Govekar's statement. Mr Islam also stated that the Respondent used to follow up with him and others regarding documentation. The application form for the wholesale/retail sale of liquor also lists the Respondent as one of

the partners of the firm for which the licence was being applied for. A document also indicates that the Police verification submitted by the Respondent was not genuine, as the Delhi Police have clearly stated they did not conduct any verification.

23. Ms Kamat submitted that although the charge sheet was not filed at the time of hearing the bail application, the relevant documents were placed before the JMFC for consideration. Given that these documents clearly indicate the Respondent's role in the present offence, the JMFC's observation that there is nothing linking the Respondent to the offence cannot be sustained. The JMFC's further finding that this is to be tested during trial is also faulty. While considering a bail application, the Court must not conduct a mini-trial; it ought to have adhered to the settled parameters in such cases.

24. The JMFC's observations are contradictory. On the one hand, the JMFC holds that whether the Respondent can be said to be the maker of the forged document, based on his being a partner in the firm, is to be tested during the trial. However, the JMFC proceeds to conduct a mini trial at the bail application stage to determine that no offence as alleged is made out, since the forged document is not a valuable security. In this regard, the JMFC's observations are infirm.

25. The further observation of the JMFC that Courts are generally liberal in granting bail in offences punishable up to 7 years is also unfounded. There is no concept of being liberal or otherwise while dealing with a bail application. The considerations and principles for the grant of bail or otherwise are well-

settled. No doubt that the court has discretion to decide a bail matter. However, the discretion to grant bail, though wide, is structured by well-settled legal principles and is neither uncanalised nor unfettered.

26. In *Manik Madhukar Sarve v. Vithal Damuji Meher*¹⁶, the Supreme Court comprehensively restated the parameters for exercising jurisdiction to grant bail, including the nature and gravity of the accusation, the role attributed to the accused, criminal antecedents, the likelihood of tampering with evidence or witnesses, the risk of absconding, and the overall impact on society.

27. A plain reading of the impugned order reveals a total absence of discussion on the nature and gravity of the accusation, the likelihood of tampering with evidence or witnesses, and the overall impact on society. It is a matter of record that the Respondent fled to Delhi immediately upon learning of the fire at the firm's restaurant. The Fire Department personnel, other authorities, and locals were engaged in rescuing people trapped inside the restaurant. At this crucial period, the Respondent travelled back home and got himself admitted to a hospital. The Police's efforts to trace his whereabouts were thwarted because the Respondent switched off his mobile phone and communicated through his driver's mobile. The driver's statement is on record. This conduct itself speaks to the Respondent's intent.

28. Many witnesses in the case are employees, hirelings, staff, agents, etc., of the Respondent and his partners. The allegation against the accused itself is a forgery, which clearly demonstrates the Respondent's propensity to tamper

16 (2024) 10 SCC 753.

with evidence. Most importantly, 25 innocent people, including guests, staff, etc., oblivious to the hazards of the unauthorised structure, perished in the fire; the owners/proprietors of the restaurant, unwilling to take accountability, indulging in flight and avoiding investigation, are factors that require serious consideration while assessing the correctness of the order. This is to be tested on the anvil of whether there was an improper or arbitrary exercise of discretion in granting bail. The test is whether the order is perverse, illegal, or unjustified. Considering the overwhelming circumstances, I am of the view that the order suffers from serious infirmity and is susceptible to interference by this Court.

29. In view of the aforesaid discussion, the order dated 7th February 2026 granting bail to the Respondent is set aside. The Respondent is directed to surrender before the learned JMFC within a period of two weeks from the date of uploading of this order.

30. It is made clear that the observations made in the present order are confined to the bail order impugned herein. Since the charge sheet was filed after the Respondent was released on bail, the Respondent is at liberty to seek bail by making a fresh application before the Trial Court and the Trial Court shall decide the same, on its own merits and totally uninfluenced by the observations made in the present order.

(DR. NEELA GOKHALE, J.)

31. After the Judgment and Order was pronounced, Mr Shreyansh Chopra, learned counsel for the Respondent, sought a stay of this Judgment and Order for a period of two weeks from today. However, considering the findings in the present Judgment and Order and since I have already permitted and granted liberty to the Respondent to make a fresh bail application before the Trial Court, I am not inclined to stay the present Judgment and Order. The prayer is declined.

32. If a fresh bail application is made before the Trial Court, the same be heard and decided expeditiously and preferably within two weeks from the date on which the bail application is made.

(DR. NEELA GOKHALE, J.)

Andreza ereira Digitally signed by Andreza ereira
Date: 2026.08.18 19:19:36 +05'30'