



IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.359 OF 2026

Nawaz Shaikh presently lodged at
Central Jail, Colvale

... Petitioner

Versus

The State of Goa, thr. Public Prosecutor
And Anr.

.. Respondents.

Mr. Vibhav Amonkar, Advocate for Petitioner.

Mr. Somnath B. Karpe, Additional Public Prosecutor with **Ms. Samiksha Vaigankar, Advocate** for Respondents.

CORAM : S. G. CHAPALGAONKAR, J.
DATED: : 28th August 2026.

ORDER:

1. The Petitioner impugns Order dated 12.08.2026 passed by the Sessions Court in Sessions Case (Ors). No.3/2020 thereby rejecting his application for cancellation of proclamation and allowing application for cancellation of bail moved by prosecution. The Petitioner further seeks directions to enlarge him on bail.

2. The Petitioner is an accused in Crime No.123/2018 registered for offences punishable under Sections 307, 341, 448, 452, 506(ii) read with Section 34 Indian Penal Code and Section 3 read with Section 5 of the Arms Act. The Petitioner was released on bail by Order dated

16.11.2018 passed by the Additional Sessions Judge, South Goa, Margao. On completion of investigation, chargesheet has been filed, he is enlarged on bail and presently Sessions Case (Ors) No.3/2020 is pending before the Sessions Court at South Goa at Margao. The Petitioner continuously attended Court proceedings and abided terms and conditions of bail. Even trial in Sessions Case No.3/2020 is commenced and as many as 7 prosecution witnesses have been examined.

3. On 06.01.2026, Petitioner has shown accused in Crime No.5/2026 registered with Vasco Police Station for offences punishable under Sections 109, 118(1) and (2), 303(2) read with 3(5) BNS, 2023. The Petitioner moved application for pre-arrest bail before the Sessions Court. While bail application was pending, the Petitioner could not attend the hearing in Sessions Case No.3/2020. Eventually, on 11.02.2026, non-bailable warrant came to be issued against him. On 24.04.2026, since non-bailable warrant could not be executed against Petitioner, proclamation came to be issued.

4. On 30.05.2026, Petitioner appeared before the Judicial Magistrate First Class at Vasco and submitted personal bond in Crime No.5/2026. Accordingly, he has been released on bail. Thereafter, Petitioner appeared in Sessions Case No.3/2020 and filed application for

cancellation of proclamation. As per directions of the Sessions Court, he had submitted a fresh personal bond of Rs.20,000/- pending application for cancellation of proclamation. On 03.07.2026, prosecution filed an application seeking cancellation of bail granted to Petitioner. The Petitioner personally remained present before the Sessions Court during hearing of the aforesaid applications. Ultimately, on 12.08.2026, Learned Sessions Judge rejected Petitioner's application for cancellation of proclamation, whereas, allowed prosecution's application for cancellation of bail and took Petitioner into custody. Hence, this Petition.

5. Mr. Vibhav Amonkar, Learned Advocate appearing for the Petitioner would submit that since 2018, Petitioner has continuously attended proceedings in Sessions Case. He abided by conditions of bail imposed upon him while being released in Crime No.123/2018. Unfortunately, when Petitioner was implicated in Crime No.5/2026 and required to pursue his remedies for pre-arrest bail, during the period from 06.01.2026 till 30.05.2026 till his release on bail, he could not attend proceedings in Sessions case. Thereafter, he *suo motu* appeared in Sessions Case No.3/2020. Even in subsequent Crime No.5/2026, he has been enlarged on bail. Hence, Petitioner need not be detained behind bars and can be released by putting appropriate conditions.

6. Per contra, Mr. Somnath B. Karpe, Learned Additional Public Prosecutor, supports the impugned Order and submits that previously, two offences have been registered against the Applicant. While the trial in Sessions Case No.3/2020 had reached advanced stage, Petitioner absconded. Non-bailable warrant issued against him could not be served. Even his surety failed to bring him before the Court. Eventually, proclamation was issued.

7. Having considered submissions advanced by Learned Advocates appearing for respective parties, it can be observed that previously Crime No.123/2018 has been registered against the Petitioner which is under trial in Sessions Case No.3/2020 before the Sessions Court. Indisputably, Petitioner was released on bail in said crime subject to condition of good behaviour. The Petitioner regularly attended hearing in Sessions Case No.3/2020 without default. As many as 7 witnesses have been examined in the trial. It is only after registration of Crime No.5/2026, wherein Petitioner is shown as accused No.5, he failed to attend hearings before Sessions Court while pursuing his remedy for grant of pre-arrest bail. It is true that because of the Petitioner's absence in Sessions Case No.3/2020, non-bailable warrant was issued which could not be executed against him. Eventually, proclamation was required to be issued.

8. The record indicates that on 30.05.2026, the Petitioner was released on bail in Crime No.5/2026 and thereafter, he appeared before Sessions Court in Sessions Case No.3/2020 and filed application for cancellation of proclamation. At the same time, prosecution filed application for cancellation of bail and same has been allowed. The prime reason for cancellation of bail is the absence of Petitioner in midst of trial in Sessions Case No.3/2020 and non-service of non-bailable warrant against him. The impugned Order further records that the Petitioner has failed to abide the conditions of bail whereby he was required to maintain good behaviour.

9. This Court finds that, due to the registration of Crime No.5/2026 dated 06.01.2026, Petitioner was required to move the application for pre-arrest bail which was dismissed. Thereafter, on 30.05.2026, he surrendered before the Magistrate and obtained bail. The absence of Petitioner cannot be said to be deliberate avoidance of attendance in Sessions Case No.3/2020. It is difficult to hold that only because Crime No.5/2026 is registered against him, he can be blamed of breach of condition regarding good behaviour. Perusal of FIR in Crime No.5/2026 suggest that Petitioner was not assailant of informant therein. He was alleged to be driver of vehicle wherein accused persons undertook journey. In the aforesaid backdrop, interest of justice would be served if Petitioner is directed to furnish fresh surety. Hence, Writ

Petition is allowed in terms of prayer clause (a), subject to condition that the Petitioner furnish fresh personal bond with one surety for Rs.50,000/- and continue to attend proceedings in Sessions Case No.3/2020 without default till conclusion of trial. Prayer clause (a) reads thus:

“a) Grant a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction calling for the records in Sessions Case (Ors.) No.3/2020 pending before the Sessions Court South Goa at Margao and after perusing the same, to quash the said Order dated 12.08.2025 passed by the Ld. District Court by which for cancellation Application of proclamation filed by the Petitioner has been dismissed and the Application for cancellation of bail filed by the Prosecution has been allowed and consequently enlarge the Applicant on bail.”

10. Criminal Writ Petition is allowed and disposed of.

S. G. CHAPALGAONKAR, J.