

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 16 OF 2015

Mr. Frank D'silva

....Applicant

Versus

State Through PP. And Anr.

....Respondents.

Mr. Arun Bras De Sa, Advocate for the applicant.

Mr. Mahesh Amonkar, Additional Public Prosecutor for the respondents.

Coram:- U. V. BAKRE, J.**Date:- 29th January, 2015.****P.C.:**

Heard Mr. Bras De Sa, learned Counsel for the applicant and Mr. Amonkar, learned Additional Public Prosecutor for the respondents.

2. The applicant, who apprehends his arrest in Crime No. 4/2015, registered with Colva Police Station for offences punishable under Sections 341, 427, 504, 352, 354-D, 506 (ii) and 504 of Indian Penal Code (I.P.C., for short) r/w. Section 8 of the Goa Children's Act, 2008, has filed the present application for anticipatory bail.

3. The complaint has been lodged by Mr. Agnelo D'Silva at Colva Police Station on 12/01/2015 alleging that on the same day at 17.35 hours at Binvaddo Betalbatim, Goa, the accused wrongfully restrained his wife and his daughter while they were proceeding in car bearing No. GA-08-E-2596 to the residence and abused them in filthy language and also damaged the car. The complainant further alleged that prior to that the applicant used to follow his daughter, had come to assault at her college campus and has been often passing in front of complainant's house and shouting and causing disturbance in the locality and even calling them on land line phone and thereby disturbing them. It is also alleged that the applicant also damaged their Aactiva Scooter bearing no. GA-08-P-8276. Further allegation against the applicant is that he caught hold of the minor son of the complainant, pulled him down, abused and threatened him on several occasions. The motive behind all these acts is to get married to the daughter of the complainant who is not interested in the applicant.

4. It is seen that all the offences except the one under Section 8 of the Children's Act are bailable offences. In the circumstances above, it becomes necessary to know about the incident for which Section 8 of the Children's Act has been applied.

5. The complaint as well as the statement of the minor son reveals that on 11/01/2015 at 17.30 hours the minor son of the complainant had gone for Sunday mass with his cousin brothers Josh and Jesus at Betalbatim Church and after finishing the children's mass at 9.30a.m. they were proceeding for their catechism classes at St. Jude's High School, opposite to Betalbatim Church. The allegation is that the applicant came there and started calling the son of the complainant in abusive language. It is further seen that the minor son of the complainant ignored the applicant and started walking towards his class on the first floor of the church school, by hiding himself and by putting his head down to avoid the applicant. But the applicant followed him on the staircase of the school, caught hold of his right hand and pulled him down in front of others and told him to go home and tell his sister to answer the phone calls of the applicant or else, the applicant will hit him and put him in shame in front of his friends. It is further seen that the minor son of the complainant was nervous and frightened and came back home with the mother of his cousin brother Jesus, who was present outside the school at that time. No doubt the statement of the victim boy has been corroborated by his two cousins namely Josh and Jesus. However, the applicant has produced on record the WhatsApp messages exchanged between the applicant and said daughter of the complainant as also

photographs which prima facie reveal the possibility of affair between the applicant and the said daughter of the complainant. Detention of the applicant, in the event of his arrest, would make the position more worse.

6. Considering the nature of the offence, I am of the view that anticipatory bail should be granted to the applicant with appropriate conditions so that the applicant does not harass the daughter as well as the minor son in any manner.

7. In the result, the application is granted, in terms as under:

In the event of arrest of the applicant in the Crime No. 4 of 2015 registered at Colva Police Station, the applicant shall be released on bail upon execution of Personal Bond in the sum of ₹ 25,000/- (₹ Twenty Five Thousand only) with one solvent surety in the like amount under the following conditions:

i. The applicant shall attend Colva Police Station on every Monday between 10.00 hours to 12.00 hours for the first three weeks starting from the next week. Thereafter, the applicant shall attend Colva Police Station as and when called upon by the Investigating Officer to do so.

ii. The applicant shall co-operate with the

Investigating Officer in the Investigation of the present case.

iii. The applicant shall not stay in Betalbatim Village for three months from today or until the charge sheet is filed, whichever is earlier. In any case, the applicant shall not contact the said daughter and minor son of the complainant in any manner whatsoever.

iv. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.

v. The applicant shall not leave India without any previous permission of the Children's Court.

U.V. BAKRE,J.

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