

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NOS.52, 53 and 54 of 2015

Mrs. Saloni Sunil Naik,
W/o Sunil Naik
Age 39, years
R/o. H. No. 442, Kharit Muddo,
Carmurlim, Bardez, Goa
Presently in Judicial Custody
Sub Jail Sada, Vasco, Goa .. Petitioner/ Applicant

Versus

State, Through P. P.,
High Court Of Bombay
at Panaji, Goa. .. Respondent

Mr. Rajneesh Naik, Advocate for the petitioner.

Mr. M. Amonkar, Additional Public Prosecutor for the respondent.

CORAM :- C. V. BHADANG, J.

Date : 19th March, 2015.

ORAL ORDER :

In all these Criminal Applications, the applicant/
original accused is seeking an order of release on bail.

2. According to the prosecution, the applicant used to
administer certain stupefying substance and thereafter, commit
theft of the cash/ ornaments from the victims. The applicant,

accordingly, has been chargesheeted in three different Sessions Cases for the offences punishable under Sections 328 and 379 of Indian Penal Code (I.P.C., for short).

3. The learned Sessions Judge has refused to release the applicant on bail, *inter alia*, on the ground that the applicant is an habitual offender and if released on bail, there are strong chances that the applicant would again indulge into similar offences.

4. I have heard Shri Naik, the learned Counsel for the applicant and Shri Amonkar, learned Additional Public Prosecutor for the respondent.

5. It is submitted by the learned Counsel for the applicant that merely because the applicant has been chargesheeted for the three different incidents of a similar nature, it would not be sufficient to label her as an habitual offender. It is submitted that unless and until the applicant has been held guilty in any of such offences, she cannot be said to be habitual offender, so as to refuse bail. The learned Counsel submitted that the applicant, being a lady, having a minor child, would be entitled to a benefit under Section 437 of Criminal Procedure Code (Cr.P.C.). It is submitted that the applicant is a permanent resident of Mapusa,

Goa and there is no likelihood of the applicant misusing the liberty, if granted.

6. The learned Additional Public Prosecutor has submitted that the applicant has indulged into similar offences within a short span of time i.e. from 11/10/2013 to 20/11/2013. It is submitted that the evidence of the victims is yet to be recorded and there is likelihood that the applicant would misuse the liberty by either indulging into similar offences or interfering with the trial.

7. I have considered the rival circumstances and the submissions made. The offences with which the applicant is charged are not punishable with death or imprisonment for life. The applicant is in custody since December, 2013. The chargesheet is already filed. The applicant, being a lady, would be entitled to the benefit of proviso to subsection (1) of Section 437 of Cr.P.C. I do not find that bail can be refused to the applicant only on the allegation that the applicant has indulged into similar offences. I find that appropriate conditions can be imposed on the applicant in order to ensure that the liberty is not misused. In the result, following order is passed :

ORDER

- (i) The applications are allowed.
- (ii) The applicant be released on bail on executing P. R. Bond of ₹ 25,000/- each with one solvent surety in the like amount, to the satisfaction of the learned Sessions Judge, Mapusa, Goa.
- (iii) The applicant shall not tamper/ interfere with the prosecution witnesses/ evidence.
- (iv) The prosecution would be at liberty to move for cancellation of bail, in the event the liberty is misused.

C. V. BHADANG, J.

SMA