

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO. 97 OF 2015

MR. CALVERT GONSALVES, PRESENTLY
IN JUDICIAL CUSTODY THROUGH
MRS. MARIA GONSALVES.

... **APPLICANT.**

VS.

POLICE INSPECTOR ACB/VIGILANCE
POLICE STATION AND ANR.

... **RESPONDENT.**

Mr. Arun De Sa, Advocate for the applicant.

Mr. S. R. Rivankar, Public Prosecutor for the respondent.

Coram : M. S. SANKLECHA, J.

Date : 20th April, 2015

ORAL ORDER :

The applicant-accused seeks grant of bail under Section 439 of Criminal Procedure Code (hereinafter referred to as 'Code').

2. The applicant is a Panch of Colva Village Panchayat. In November-2014 an F.I.R. was registered in the ACB/Vigilance Police Station, Althino, Panaji (hereinafter referred to as 'police station'), alleging that the applicant has committed offence u/s.13(1)(e) r/w Section 13(2) of the Prevention of Corruption Act, 1988. It is the case of the State that the applicant is having disproportionate assets having regard to his known sources of income. In fact, it is alleged by the State that prima facie the applicant has disproportionate assets of over 20 times.

3. The applicant had filed an application for anticipatory bail, which came to be rejected on 23 March, 2015 by the Special Judge, North Goa, Panaji. The applicant was arrested on 7 April, 2015 by the Police. This was for the reason that

the applicant was giving evasive replies to the police and not co-operating. Thus the Investigating Officer (I.O.) was apprehensive that the applicant may threaten the witnesses and would tamper with the vital evidence relating to this case. The applicant was in police custody till 15 April, 2015 and thereafter continuous to be in judicial custody till today.

4. It is submitted by Mr. De Sa, learned counsel appearing for the applicant that the case of disproportionate assets would not stand the scrutiny of proper investigation. It is submitted that the applicant earns income not only as a Panch but also as an actor in Kokani plays and his wife's earning would also have to be considered. Besides the investigation into the alleged offence would take time. The applicant offers to reside outside Colva village for the time being and visit Colva only to attend the panchayat meetings with prior intimation to I. O. Thus, the bail be granted.

5. On the other hand, Mr. Rivankar, learned Public Prosecutor for the State submitted that the only apprehension is that if bail is granted the applicant-accused may threaten the witnesses and also tamper with the evidences. Besides, the fear is that the applicant-accused may not co-operate with the investigation. Mr. Rivankar does not dispute that investigation would take time.

6. It is an agreed position that the investigation into disproportionate assets would admittedly take sometime. Thus if the apprehension as voiced by the counsel for the State is taken into account while granting bail by providing appropriate safeguards / conditions the interest of justice would be met.

7. Therefore, in the facts and circumstances of the case, the fears of State could be allayed by granting bail subject to the following conditions :

- (a) The applicant shall furnish the bail bond of Rs.1,00,000/- (Rupees One lakh only) and one surety of like amount. This is to be satisfaction of the Special Court.
- (b) The applicant will co-operate with the police in the investigation.
- (c) The applicant shall not visit village Colva till the investigation is complete, except to attend the meetings of the panchayat. This would also be after giving 24 hours advance notice to the I. O.
- (d) The applicant shall not to in any manner directly or indirectly threaten or influence any of the witnesses or any other person otherwise connected with the investigation into this offence.
- (e) The applicant-accused shall not to tamper with any of the evidences.
- (f) The applicant would inform the I. O. about the place of his residence, where he intends to stay and his movements, if any, from the place of his residence.
- (g) The applicant will not leave the State of Goa without prior permission of the Special Court.
- (h) The applicant shall submit his passport, if any, immediately to the police station at the time of furnishing bail bond, if it is not already submitted.

8. In case of breach of any of the above condition by the applicant, the I. O. shall be entitled to move this Court for cancellation of the bail.

M. S. SANKLECHA, J.