

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO. 304 OF 2014

MRS. LUCIA PIEDADE VALADARES ... Applicant

Versus

STATE OF GOA THROUGH INCHARGE
PERNEM POLICE STATION AND ANR. ... Respondents

Mr. Melwin A. Viegas, Advocate for the Applicant.

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

Coram:-U. V. BAKRE, J.

Date:- 12th January, 2015

ORAL ORDER:

Heard Mr. Viegas, learned Counsel for the applicant and Mr. Rivankar, learned Public Prosecutor for the respondents.

2. The applicant, who apprehends her arrest in Crime No. 210 of 2014 registered at Pernem Police Station for offence under Section 324 of Indian Penal Code ('I.P.C.', for short) and Section 8 of the Goa Children's Act, 2003 ('Children's Act', for short), has filed the present application for anticipatory bail.

3. On 26/11/2014, at 11.00 hours, Shri Vinayak Kalshaokar filed a complaint at Pernem Police Station alleging that on 25/11/2014 at about 10.45 hours, the applicant, a teacher of Atma Vishwas

School, Tuem, Pernem, Goa, assaulted his minor son aged 12 years with her slipper, pinched him on the face and kicked him on his legs thereby causing injuries to his body.

4. The applicant states that a false complaint has been filed against her at the instance of Mr. Sitaram Gaude, the In-charge of the said school, since she had filed complaint against Mr. Gaude with respect to the bribe demanded by him and on being slapped by him. The applicant further says that the said boy Nakul had come with a sharp pencil and jabbed the same into the hand of the applicant, in the class room and accosted her near the school toilets and thus she had reacted in pain and told him to go away from her. But, said Nakul then sought to remove the pressure pills from the applicant's hand bag due to which the the applicant again reprimanded him and the said Nakul then came with a metal pipe in his hand to assault the applicant and a teacher of the said school, namely Mr. Sagar intervened and prevented Nakul from assaulting the applicant with the said metal pipe. She says that she has no criminal antecedents and is deeply rooted in Goa and undertakes to co-operate with investigation.

5. By way of reply, the Investigating Officer has alleged that the panchanama of the scene of offence has been conducted and that

the statement of the victim boy has been recorded. It is stated that the Medical Officer has certified that the injuries sustained by victim are simple in nature. It is stated that the statement of relevant witnesses have been recorded and they have stated that they had seen the applicant assaulting the boy with slipper. It is also stated that the Anticipatory Bail Application filed before the Children's Court has been rejected. It is alleged that the family members of the victim boy are traumatized due to which the said incident of assault and it has created fear in their mind to send the boy to school. It is stated that the presence of the applicant is required in police custody for thorough custodial interrogation and in order to ascertain the exact motive behind the crime. It is also stated that the investigation is almost completed and the chargesheet will be filed before the Children's Court, Panaji, as early as possible.

6. Mr. Viegas, learned Counsel for the applicant, submitted that the applicant being a female teacher and the investigation being almost completed, there is no point in detaining the applicant in custody in the event of her arrest. He submitted that nothing is required to be recovered at the instance of the applicant and merely for ascertaining the motive behind the assault, the custodial interrogation of the applicant would not be required.

7. On the other hand, the learned Public Prosecutor submitted that the crime is of serious nature since it is an assault on the minor victim who is a special child and requires to be handled with care and concern. He submitted that such an offence has been committed by a responsible teacher and therefore should be taken seriously. He submitted that custodial interrogation of the applicant is required for knowing as to why the applicant had to assault the child.

8. I have gone through the material on record.

9. The offence under Section 324 of I.P.C. provides for imprisonment which may extend to three years, or fine, or both and Section 8 of the Children's Act provides for punishment which may extend to three years and fine of ₹ 1,00,000/-, since the offence cannot be of Grave Sexual Assault. The applicant is a teacher who is otherwise qualified to teach special children. The applicant is a woman and suffers from low blood pressure. Merely for knowing the motive behind the assault, custodial interrogation of the applicant would not be required. Nothing is required to be recovered at the instance of the applicant and the fear that the applicant may flee from the justice and that she will tamper with

the evidence, can be taken care of by imposing appropriate conditions on the applicant. The applicant has no criminal antecedents.

10. Considering the nature of the offence and the other circumstances, I am of the view that the applicant should be granted anticipatory bail.

11. In the result, the application is allowed. In the event of arrest of applicant in Crime No. 210 of 2014 registered with Pernem Police Station, the applicant shall be released on bail, upon execution of personal bond in the sum of Rs.10,000/- (Rupees Ten Thousand Only) with one solvent surety in the like amount, under the following conditions:

- (a) The applicant shall cooperate with the investigation.
- (b) 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.
- (c) The applicant shall not interfere with the victim boy in any manner.

(d) The applicant shall not leave India without any previous permission of the Special Court.

U. V. BAKRE, J.

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