

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 91 OF 2016

ANIL ZATE, PRESENTLY IN JUDICIAL
CUSTODY, COLVALE.

... Applicant

Versus

STATE THR. P.P.

... Respondent

Mr. Rajneesh Naik, Advocate for the Applicant.
Mr. Mahesh Amonkar, Additional Public Prosecutor for the
Respondent.

Coram:- C. V. BHADANG, J.

Date:- 8th July, 2016

P.C:

The applicant alongwith two others is facing prosecution for the offence punishable under Sections 302, 449 and 392, read with Section 34 of IPC, before the learned Sessions Judge at Panaji.

2. The prosecution case is that between 17:30 hours of 16.09.2015 and 9:00 hours of 17.09.2015, the applicant alongwith two others assaulted the deceased Mrs. Joyce Coutinho and her husband Mr. Reginald Coutinho with a koita and caused their death. Prima facie, it appears that the prosecution case is based on circumstantial evidence, as there is no eye witness account of the incident. Insofar as motive is concerned, according to the prosecution in May, 2015, on the basis of a complaint lodged by Mrs. Joyce Coutinho, the applicant was prosecuted for an offence of theft and out of vengeance the applicant, alongwith two others has committed the offence. The

other evidence is about recovery of clothes, at the instance of the applicant.

3. The learned Additional Public prosecutor has produced the report of the Forensic Laboratory and he fairly submits that no blood was detected on Exhibit-A and Exhibit-B, which are the clothes allegedly recovered from the applicant. Further, according to the prosecution, the applicant had shown the shop from where he had purchased the koita and also another shop from where he had purchased meat in order to pacify the pet dogs at the house of the deceased.

4. The learned Counsel for the applicant submits that this later part about showing the shops from where the applicant had purchased the koita and meat, would not fall under Section 27 of the Evidence Act.

5. I have carefully considered the circumstances and the submissions made. Prima facie, at this stage, it appears that the material circumstance claimed by the prosecution is about motive. However, undisputedly, the said theft case was compounded by the complainant-Joyce Coutinho and the applicant was acquitted. The other evidence is alleged discovery of clothes, on which no blood stains were found. In such circumstances, discretion can be exercised in favour of the applicant, subject to conditions.

6. Hence, the following order is passed:

- (a) The applicant shall be released on bail on execution of a P.R. bond in the sum of Rs.50,000/- with one or two local solvent sureties in the like amount.
- (b) The applicant shall furnish his native address before the learned Sessions Judge alongwith proof.
- (c) The applicant shall not leave the jurisdiction of the learned Sessions Judge, Panaji, without the permission of the Court.
- (d) Bail to be furnished before the learned Sessions Judge.
- (e) The learned Sessions Judge shall not be influenced by any of the observations herein.
- (f) The application is disposed of in the aforesaid terms.

C. V. BHADANG, J.

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