

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL APPLICATION (BAIL) NO. 105 OF 2016**

SHRI. YUVRAJ GAWAS.

... Applicant

Versus

STATE THR. P.P. AND ANR.

... Respondent

Shri Sidhesh Shet, Advocate for the Applicant.

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

Coram:- C. V. BHADANG, J.**Date:- 17th June, 2016****P.C.:**

The applicant, who is a police constable is seeking pre-arrest bail in connection with investigation of Crime No.149/2016 P.S. Ponda registered under Section 352, 354, 506 and 509 of the Indian Penal Code.

2. The prosecution case is that on 7/05/2016 there was a farewell party to three police officers, which was attended by the applicant as also the complainant, who happens to be a home guard. The allegation is that during the party hours at around 5.45 p.m. the applicant who was under the influence of liquor, pushed the complainant, with the intention of outraging her modesty and also abused her in the presence of the other officers who were present. The complaint of the incident was lodged by the complainant on 10/05/2016 and the FIR came to be registered only on 21/05/2016. The investigation is stated to be in progress.

3. The learned Sessions Judge has refused the anticipatory bail inter alia the ground that it is not expected of a Police Officer to indulge into such an offence and has also found that custodial interrogation is necessary.

4. I have heard the learned Counsel for the applicant and the learned Public Prosecutor for the respondents/State. The learned Public Prosecutor, on instructions, from the Investigating Officer who is present before the Court states that custody of the applicant is not required and this Court may put the applicant on condition of attending the Investigating Officer as and when required. The learned Public Prosecutor also states that the investigation is practically complete.

5. I have perused the statements recorded during the course of the investigation. It would not be appropriate to discuss the contents in detail. There cannot be any dispute that a person belonging to a disciplined force, should not indulge in any such incident. However, the question is whether the custodial interrogation of the applicant is necessary. It may be mentioned that the complainant in the last para of the complaint states thus:

"In the end I request you that above accused person is family person and action against him may become troublesome to his family who are depend on him hence I request you that whatever punishment will be applicable to him due to his above offence may be applied by making departmental inquiries."

Having regard to the nature of the incident as stated by the complainant and also the statement of the witnesses and the fact that the Investigating Officer states that custody of the applicant is not required for interrogation, the following order is passed:

O R D E R

(i) In the event of his arrest in connection with investigation of Crime No.149/2016 of Ponda Police Station, the applicant shall be released on bail on execution of PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(ii) The applicant shall remain present before the Investigating Officer as and when required and shall cooperate with the Investigating Agency.

(iii) The applicant shall not tamper with or influence prosecution witnesses in any manner.

(iv) In the event of breach of any of the conditions, liberty to the prosecution to move for cancellation.

6. The application is disposed off in the aforesaid terms.

C. V. BHADANG, J.

NH