

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 124 OF 2016

MR.DATTATRAY GAWDE, PRESENTLY IN
JUDICIAL CUSTODY AT SADA,
SUB-JAIL, VASCO, THR. MRS.MANASVI
D. GAWDE

... Applicant

Versus

STATE OF GOA, THR. OFFICER
INCHARGE OLD GOA POLICE STATION
AND ANR.

... Respondents

Mr. A.V. Pavithran, Advocate for the Applicant.

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

CORAM:- C.V. BHADANG, J.

DATE:- 7th JULY, 2016.

ORAL ORDER:

Heard the learned Counsel for the applicant
and the learned Public Prosecutor for the
respondents.

2. The applicant has been arrested in
connection with investigation of offence at Crime
No. 28/2016 of Old Goa Police Station, under
Sections 342, 395 and 427 of I.P.C., read with
Section 8 of the Goa Children's Act, 2003. The

applicant was arrested on 29.04.2016 and is presently in judicial custody.

3. The prosecution case as per the complaint lodged by one Keshvnath Naik, is that in the night intervening between 06.03.2016 and 07.03.2016, between 2:30 a.m. to 3:30 a.m., seven unidentified persons wearing black mask, armed with knife and wooden sticks had entered into his house by breaking open the back door. It was claimed that the complainant and his family members including his minor daughter, were tied with the help of a cloth and the accused persons committed dacoity and took away cash and some golden ornaments.

4. The allegation, insofar as the present applicant is concerned, as revealed from paragraph 17 of the reply, is that the CDR details reveal that the applicant was at Corlim on 06.03.2016 at 8:30 p.m. and thereafter his location on the next day i.e. on 07.03.2016 at 9:00 hours is shown at Kudal and as the offence was committed in the night

intervening between 06.03.2016 and 07.03.2016, between 2:30 a.m. to 3:30 a.m., it cannot be concluded that the applicant/accused was not at the place of the offence, as it requires two hours to reach Kudal. It is also alleged that the applicant was shown to be in contact with the main accused, Vijay Patole. At this stage, there is no other over act, as such, attributed to the applicant.

5. I have considered the circumstances and the submissions made. One of the co-accused, namely Pushpa Gadekar has been released on bail by this Court on 16.06.2016 in Criminal Application (Bail) No. 101/2016. One of the grounds was that she being a lady was entitled to the benefit of the proviso to Section 437 of Cr.P.C., which may not apply in this case. Thus, although strictly speaking, no parity arises, having regard to the allegations made against the applicant and as, it is not claimed by the prosecution at this stage, that the applicant was actually involved in the incident of commission of dacoity and *prima facie*,

the only allegation is that he was shown to be in contact with the main accused, discretion can be exercised in favour of the applicant, subject to conditions. The applicant is said to be a native of Kudal, District-Sindhudurg, Maharashtra and is presently residing at Corlim, Goa.

6. In such circumstances, the following order is passed:

O R D E R

(a) The application is allowed.

(b) The applicant be released on bail on execution of a P.R. Bond in the sum of Rs.50,000/- with one or two solvent sureties in the like amount.

(c) The applicant shall remain present before the investigating officer, as and when called and shall co-operate with the investigating agency.

(d) The applicant shall not enter Corlim for a period of two months,

or till filing of the charge sheet, whichever is earlier.

(e) The applicant shall not establish any contact with the co-accused and/or interfere with the investigation and/or tamper with the evidence and the prosecution witnesses, in any manner.

(f) The applicant shall furnish his native address to the investigating officer, within three days from today.

(g) In the event of breach of any of the conditions, liberty to the prosecution to apply for cancellation of bail.

(h) Bail to be furnished before the Children's Court.

(i) The application is disposed of, in the aforesaid terms.

C.V. BHADANG, J.