

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO. 240 OF 2016

NITESH KALANGUTKAR, PRESENTLY
LODGED IN JUDICIAL CUSTODY AT SUB
JAIL, VASCO., ... Applicant
Versus
STATE OF GOA, THR. POLICE
INSPECTOR ATTACHED TO PONDA POLICE
STATION AND ANR., ... Respondents

Mr. S. G. Desai, Senior Advocate with Mr. Pavithran A. V.,
Advocate for the applicant.

Mr. M. Amonkar, Addl. Public Prosecutor for the respondents.

Coram:- F. M. REIS, J.

Date:- 22nd December, 2016

P.C.

Heard Mr. S. G. Desai, learned Senior Counsel appearing for the applicant and Mr. M. Amonkar, learned Addl. Public Prosecutor appearing for the respondents.

2. The application filed by the applicant is for bail on the ground that the applicant had been arrested on 14.11.2016 in connection with an FIR No.244/2016 of Ponda Police Station registered against the applicant and others for offences punishable under Sections 342, 343, 344, 370-A read with 34 of the Indian Penal Code and under Sections, 3, 4, 5, 6 and 7 of the Immoral Traffic (Prevention) Act, 1956 and Sections 8(2) and

(9) of the Goa Children's Act, 2003 and also under Sections 4, 8 and 12 of the Protection of Children From Sexual Offence Act, 2012.

3. It is the contention of the applicant that initially the applicant was placed in police custody and he is now in judicial custody from 19.11.2016. It is further pointed out that the applicant is innocent of the alleged offence and as such there is no reason to continue the applicant in custody as the investigations are almost completed. The learned Senior Counsel pointed out that out of 10 accused, eight of the accused have been released on bail by the learned Children's Court. It is further pointed out that in fact the main accused in the alleged offence has already been released on bail and as such the question of keeping the applicant in custody on a spacious plea that he is involved in a serious offence is totally unjustified. The learned Senior Counsel as such points out that the applicant shall report to the Investigating Officer as and when required and as such prays to be released on bail.

4. When the matter was taken up on the last date of hearing, it was also submitted by the learned Senior Counsel appearing for the applicant that in similar circumstances, the other accused were released on bail. Mr. M. Amonkar, learned Addl. Public Prosecutor appearing for the respondents sought time to examine

the orders passed in such bail applications.

5. When the matter was taken up today, Mr. Amonkar, learned Addl. Public Prosecutor fairly states that eight of the accused have been released on bail and in fact the role played by one of them is much more serious than the one attributed to the applicant. The learned Addl. Public Prosecutor as such points out that the above application be accordingly dispose of in accordance with law.

6. I have considered the submissions of the learned counsel and I have also gone through the records. It is undisputed that similarly placed accused have been released on bail by the learned Children's Court. Taking note of the contention of the learned Addl. Public Prosecutor and as it is pointed out that the investigations are almost at the final stage, I find that the question of keeping the applicant in custody would not at all be justified. The learned Children's Court has essentially rejected the application for bail on the ground that the applicant is involved in serious offence. No doubt, in normal circumstances, bail should be refused in cases where an accused is involved in a serious offence specially when a minor is involved. In the peculiar facts of the case, considering the sequence of the allegations which are attributed to the other accused, who have already been released on bail, I find that there is no reason to

continue the applicant in custody at this stage.

7. In view of the above, I pass the following :

O R D E R

(i) The respondents are directed to release the applicant on bail upon executing a personal bond of Rs.25,000/- and one local surety of like amount to the satisfaction of the Investigating Officer.

(ii) The applicant shall not leave the State of Goa, without obtaining the written permission from the Investigating Officer and furnish his permanent residential address to the Investigating Officer.

(iii) The applicant shall not contact directly or indirectly the victim or any of the witnesses of the respondents nor tamper with any evidence in connection with the said crime.

(iv) The applicant shall remain present as and when directed by the Investigating Officer for the purpose of investigation.

(v) The applicant shall surrender his passport, if any, to the

Investigating Officer.

(vi) The applicant shall report to the Investigating Officer on every Monday and Thursday at 10.00 a.m. at the concerned Police Station until filing of the charge sheet.

(vii) The application stands disposed of accordingly.

(viii) Expedite an authenticated copy of this order to the applicant.

F. M. REIS, J.

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