

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 245 OF 2016

Mr. Alexandre Jose Rodrigues,
S/o. Michael Rodrigues,
Aged 32 years, Pvt. Sdervice
R/o. H. No. 284, Tambdi Mati,
Behind J. P. Bar,
Taleigao-Goa.

..... Applicant

V e r s u s

1. STATE
(Through the P. I. Attached to
Panaji Police Station,
Panaji – Goa)
2. Public Prosecutor,
High Court of Bombay at Goa,
Panaji, Goa.

..... Respondents

Mr. Vivek Rodrigues and Ms. Sunita Gupta, Advocates for the Applicant.

Mr. Pravin Faldessai, Addl. Public Prosecutor for the State-Respondents.

Coram :- SMT. ANUJA PRABHUDESSAI, J.

Date : 28th December, 2016

ORAL ORDER

The Applicant herein has filed this application for anticipatory bail apprehending his arrest in Crime no. 271/2016 registered at Panaji Police Station for offences punishable under Section 307, 326, 143, 147, 148 r/w 149 of the Indian Penal Code.

2. The learned Counsel for the Applicant submits that the Applicant herein is not involved in the incident. He has further submitted that none of the

witnesses have attributed any overact to this Applicant. It is further submitted that the Applicant is sought to be roped in by aid of Section 149 of the Indian Penal Code. He had further submitted that there is absolutely no material on record to indicate that the Applicant shared a common object with the other co-accused. The Applicant, therefore, cannot be roped in with the aid of Section 149 of Indian Penal Code. He has further submitted that the presence of the Applicant is not required for the purpose of investigation. He contends that the Applicant is a married man with children and considering the fact that he is not involved in the crime, he is entitled to be released on bail.

3. Learned Addl. Public Prosecutor for the State submits that the material on record prima facie shows that the Applicant had accompanied the other co-accused who were involved in the incident. He has further submitted that the co-accused who is a nephew of the present Applicant had inflicted serious injuries on the victim Dadapir. The offence is of grave and serious nature. He has further submitted that the Applicant had accompanied the other co-accused to the place of the incident itself. The object as to unlawful assembly, of which the Applicant was a member, was to assault Abedin Shaikh and others.

4. I have perused the records and considered the submissions advanced by the learned Counsel for the Applicant and the learned Addl. Public Prosecutor for the State-Respondents. The records prima facie reveal that one Zulekha Shaikh had lodged a FIR dated 02.12.2016 alleging that on 01.12.2016 at about 20.45 hours, one Laiq Motiwala, one of the co-accused, had come to her residence and that there was some altercation between him and her son Abedin Shaikh.

Thereafter, Laiq Motiwala left the place of the incident. About ten minutes thereafter, he returned to the place of the incident along with other co-accused in a white car. She has further stated that Laiq Motiwala, the Applicant and the other Co-accused got out of the car and they called out to her son Abedin Shaikh. There were some arguments between Abedin and the occupants of the white car. In the meantime, the victim Dadapir came to the spot and tried to pacify both the parties during which time one of the occupants assaulted Dadapir by means of a chopper and caused injuries to his chest, right hand, stomach, etc.. Based on the said FIR, the aforesaid Crime no. 271/2016 was registered.

5. The statements of the victim as well as the other witnesses prima facie indicate that there was an altercation between Laiq Motiwala and Abedin Shaikh. Laiq Motiwala had left the place. He had returned about ten minutes thereafter along with the Applicant and other co-accused. There was altercation between both the groups. Dadapir, the brother-in-law of Abedin Shaikh tried to intervene, at which time, the co-accused Rony inflicted injuries on said Dadapir by means of a chopper.

6. The FIR as well as the statements of the other witnesses do not prima facie indicate that the Applicant herein was armed with a weapon or that he had inflicted any injury on Dadapir or on Abedin Shaikh. Prima facie, there is no material on record to indicate that he had come to the place of the incident with an object of causing injury to Dadapir. Considering the nature of allegations levelled against the Applicant, in my considered view, this is not a fit case which would warrant custodial interrogation.

7. Under such circumstances, the application is allowed on the following conditions :

(i) In the event of the arrest of the Applicant in Crime no.271/2016, the Applicant is ordered to be released on furnishing bail bond of Rs.15,000/- with two sureties in the like amount to the satisfaction of the learned JMFC, Panaji.

(ii) The Applicant shall report to the Investigating Officer for a period of seven days from 10.00 a.m. to 2.00 p.m. and further as and when required by the Investigating Officer for the purpose of interrogation and investigation.

(iii) The Applicant shall not leave the State of Goa till filing of the chargesheet without the leave of the learned JMFC, Panaji.

(iv) The Applicant shall not interfere with the victim or any of the witnesses in any manner and shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the circumstances so as to dissuade him from disclosing the facts to the Court or the Investigating Officer.

SMT. ANUJAPRABHUDESSAI, J.

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