

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL APPLICATION (BAIL) NO. 55 OF 2017**

MR. ANTONIO D'CRUZ @ PAULU,
PRESENTLY IN CENTRAL JAIL,
COLVALE, THR. MR. ROHAN
HARMALKAR.,

... Applicant

Versus

POLICE INSPECTOR, CRIME BRANCH
AND ANR.,

... Respondents

Shri Arun Bras De Sa, Advocate for the Applicant.

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

CORAM:- C.V. BHADANG, J.

DATE:- 27th FEBRUARY, 2017.

ORAL ORDER:

Heard Shri De Sa, the learned Counsel for the applicant and Shri Rivankar, the learned Public Prosecutor for the respondents.

2. The applicant is a co-accused in connection with an offence at Crime No. 31/2016 of P.S. Saligao (which investigation has been subsequently transferred to the Crime Branch), for the offence punishable under Section 394 read with Section 120-B of IPC.

3. The prosecution case in short is that the complainant Mr. Altaf Meman, resident of Kudal, District Sindhudurg, Maharashtra, who is having a distribution agency of Vodafone mobile, had come down to Goa to purchase a LED TV. The case of the complainant is that he was having an amount of Rs.34,00,000/- in denomination of new 2000 currency notes, issued in pursuance to demonetization and he was interested in getting notes of lower denomination such as Rs.500/- for his business purpose. In short, according to the complainant, the applicant and the other co-accused had hatched a criminal conspiracy in which, under the garb of exchanging the new currency notes of Rs.2,000/- for currency notes of a lower denominations, the accused had committed robbery.

4. Undisputedly, out of seven accused, all other accused, excepting the applicant, have been released on bail, which includes the accused, who are said to be the members of police from Mapusa police station.

5. According to the prosecution, there is recovery of an amount of Rs.14,00,000/- at the instance of the applicant and an amount of Rs.13,20,000/- from the co-accused no.2, Vineet Shet.

6. A perusal of the order passed by the learned Sessions Judge shows that the application for bail has been rejected mainly on two counts, firstly on account of there being a recovery at the instance of the applicant and secondly, on account of the criminal antecedents of the applicant. Insofar as the recovery of the amount is concerned, one of the co-accused namely, Vineet Shet (at whose instance also, the recovery is claimed), has been released on bail and parity would arise on that account. Insofar as the criminal antecedents are concerned, the prosecution has set out the previous crime details of the applicant in para 19 of the reply. The learned Counsel for the applicant states that the applicant has been acquitted from all these offences and as such, the presumption of innocence, would stand fortified. The learned Public Prosecutor does not dispute that the applicant has been acquitted from all these offences.

7. Considering the overall circumstances and particularly, the fact that one of the co-accused (who is similarly situated insofar as the recovery of the amount is concerned), is released on bail and further having regard to the fact that the applicant has been acquitted from the offences registered against him and further the fact that the investigation is stated to be complete, I

find that discretion can be exercised subject to conditions.

Hence, the following order:

ORDER

- (a) The application is allowed.
- (b) The applicant be released on bail, on execution of a P.R. Bond in the sum of Rs.1,00,000/-, with one or two solvent sureties in the like amount, to the satisfaction of the learned Sessions Judge.
- (c) The applicant shall not tamper and/or influence the prosecution evidence and/or witness in any manner.
- (d) The applicant shall attend the investigating agency as and when required.
- (e) In the event of breach of any of the conditions, the bail is liable to be cancelled.
- (f) Parties to act on an authenticated copy of this Order.

C.V. BHADANG, J.