

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (MAIN) NO. 61 OF 2017

MR. CYRIL RODRIGUES, PRES. IN
JUDICIAL CUSTODY AT CENTRAL JAIL,
COLVALE, THR. MR. JESUDAS
FERNANDES.,

... Applicant

Versus

THE STATE OF GOA, THR. POLICE
INSPECTOR, QUEPEM POLICE STATION,
QUEPEM.,

... Respondent

Mr. Ryan Da Piedade Menezes, Advocate for the applicant.
Mr. S. R. Rivonkar, Public Prosecutor for the respondent.

Coram:- F. M. REIS, J.

Date:- 8th March, 2017

ORAL ORDER :

Heard Mr. R. Menezes, learned counsel appearing for the applicant and Mr. S. R. Rivonkar, learned Public Prosecutor appearing for the respondent.

2. The above petition inter alia challenges an order passed by the learned Children's Court dated 23.02.2017 whereby the bail granted to the applicant by an order dated 25.02.2015 came to be cancelled on the ground that there was a breach of the condition imposed therein to the effect that the applicant shall not directly or indirectly interfere with the witnesses of the prosecution.

3. Mr. Menezes, learned counsel appearing for the applicant submits that the sequel of the proceedings initiated before the learned Children's Court is a marital dispute between the applicant and his wife who is presently working abroad. It is further pointed out that the dispute is instigated at the instance of the mother in law who is residing in the residential house which belongs to the applicant wherein his two children are also residing. It is further pointed out that the said mother in law who is one of the witnesses to the Case before the learned Children's Court, has falsely alleged that the applicant had interfered or intimidated her not to depose in the said proceedings. It is further pointed out that the applicant has disputed such allegations but however, by the impugned order dated 23.02.2017 the bail came to be cancelled and the applicant was directed to be placed in judicial custody.

4. The learned Public Prosecutor however points out that the evidence of the said mother in law (PW1) as well as the victim who is the daughter of the applicant had already been recorded but however, the matter is pending for cross examination of the said two witnesses. The learned Public Prosecutor however submits that until the evidence of PW1 and the victim is concluded, there is no question of interfering with the order passed by the learned Children's Court cancelling the bail of the applicant.

5. I have considered the submissions of the learned counsel and I have also gone through the records. The admitted position is that the applicant as well as the mother in law and his two children are living in the residential house belonging to the applicant. The allegations against the applicant are seriously disputed by the applicant. Apart from that, the proceedings before the learned Children's Court are stated to be on account of a matrimonial discord between the applicant and his wife who is presently working abroad.

6. In the peculiar facts and circumstances of the case, I find that the impugned order passed by the learned Children's Court dated 23.02.2017 deserves to be quashed and set aside, but however, imposing an additional condition on the applicant for bail which has been granted pursuant to an order dated 25.02.2015. The applicant shall not visit or reside in the residential house but reside outside the jurisdiction of the Quepem Taluka until the deposition of PW1 and the said victim is concluded. Needless to say that the applicant is at liberty to depute a person to collect his personal belongings from his residential house. The applicant shall accordingly be released on bail by the learned Children's Court subject to the above condition and all other conditions imposed in the order dated 25.02.2015.

7. The application stands disposed of accordingly.
8. Expedite an authenticated copy of the order to the applicant.

F. M. REIS, J.

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