

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO. 67 OF 2017

MR. JOSEPH BERNARD NAZARETH., ... Applicant
Versus
THE POLICE INSPECTOR, CALANGUTE
POLICE STATION AND ANR., ... Respondents

Mr. Kapil D. Kerkar, Advocate for the applicant.
Mr. M. Amonkar, Addl. Public Prosecutor for the respondents.

Coram:- F. M. REIS, J.

Date:- 8th March, 2017

ORAL ORDER :

Heard Mr. K. Kerkar, learned counsel appearing for the applicant and Mr. M. Amonkar, learned Addl. Public Prosecutor appearing for the respondents.

2. The challenge in the above application is to the order dated 03.03.2017 whereby the bail granted to the applicant by an order dated 28.05.2012 came to be cancelled on the ground that the applicant had disobeyed one of the conditions imposed to the effect that the applicant shall not interfere directly or indirectly with the witnesses of the prosecution. It is the contention of the learned counsel appearing for the applicant that the allegations made against the applicant are frivolous as according to him though it is alleged that the applicant had intimidated the witness PW9 who had come from Orissa being the father of the victim, nevertheless, the manner in which such intimidation was

committed has not been specifically disclosed. It is further submitted that there is no material on record to corroborate the allegations made in the application for cancellation of bail as the learned Children's Court has wrongly proceeded on the basis of the allegations made in the written complaint which are baseless.

The learned counsel also pointed out that even the application is not supported by an affidavit. The learned counsel as such points out that as the evidence of the said witnesses have already been completed, the question of the applicant continuing to be in custody would not at all be justified as in any event according to him the proceedings itself initiated against the applicant are groundless.

3. On the other hand, Mr. M. Amonkar, learned Addl. Public Prosecutor appearing for the respondents submits that the learned Children's Court has rightly cancelled the bail as according to him the applicant had tried to intimidate the witnesses of the prosecution at the time of their deposition and as such incident occurred within the Court premises on the day when PW9 was going into the witness box as the prosecution witness.

4. I have considered the submissions of the learned counsel and I have also gone through the records. It is not in dispute that the applicant was on bail from the year 2012. There is no allegation that at any point of time the applicant had otherwise violated the conditions imposed while granting such bail. It is contended that the alleged intimidation of PW9 had occurred

within the Court premises but however, no complaint with that regard was registered nor such attempt on the part of the applicant reported to the learned Judge on the date of the alleged incident. It is also not in dispute that the evidence of PW9 has already been concluded and in such circumstances, the question of the applicant continuing to be in judicial custody would not at all be justified in the peculiar facts and circumstances of the case.

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

O R D E R

(i) The impugned order dated 03.03.2017 passed by the learned Children's Court is quashed and set aside.

(ii) The applicant is directed to be released on bail on the same terms and conditions as imposed in the order dated 28.05.2012.

(iii) The application stands disposed of accordingly.

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

F. M. REIS, J.

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