

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO. 104 OF 2017

MR. CLITONIO PINTO.,	... Applicant
Versus	
STATE OF GOA, THR. PUBLIC PROSECUTOR AND ANR.,	... Respondents

Mr. Harshad H Arsekar, Advocate for the Applicant.
Mr. S. R. Rivankar, Public Prosecutor for the Respondent/State.

Coram:- M. S. SONAK, J.

Date:- 12th April, 2017

P.C.:

Heard Mr. Areskar, the learned counsel for the applicant and Mr. Rivankar, the learned Public Prosecutor for the respondent/State.

2. The applicant seeks anticipatory bail in connection with CRA No.16/2017 registered by the Cuncolim Police Station invoking the provisions of Section 8 (9) of the Goa Children's Act 2003 and Section 79 of the Juvenile Justice (Care and Protection of Children)Act 2015.

3. On 1/2/2017 the mother of a minor (now aged about 17 years) lodged a compliant before the Childline, Orissa stating that the minor was found missing. On 22/2/2017, the minor was

found at the house of the applicant at Chinchinim and her statement was recorded in the presence of the Coordinator, Childline. The minor was medically examined and lodged at Apna Ghar. On the basis that the applicant had not obtained any permission from the Director of Women and Child Development to keep the minor in his house, though, the minor was not related to him by blood, the case has been registered against the applicant. It is the case of the prosecution that this amounts to the breach of the mandate of section 8(4) of the Goa Children's Act 2003.

4. The applicant had earlier applied for anticipatory bail before the Children's Court, which came to be rejected by the order dated 30/3/2017. The learned Judge has noted that it was the case of the prosecution that the minor was not paid any salary by the applicant and in any case a part of her salary was paid to one Mr. Bernard, who visits the applicant's house once in two months. The learned Judge has reasoned that this means that the applicant is aware about the whereabouts of Mr. Bernard and also of one Mr. Jikorio, who in the first place is responsible for bringing the minor from Orissa to Goa. The learned Judge has reasoned that the custody of the applicant is necessary so that the whereabouts of the said two persons are ascertained and the said two persons are apprehended.

5. Mr. Rivankar, the learned Public Prosecutor has produced for my perusal the statements recorded at the Cuncolim Police Station. The minor, in her statement has categorically stated that she has been working as a maid servant at the resident of the applicant in Cuncolim. She has stated that the applicant resides with his wife, mother and two minor children. She has categorically stated that she was not abused or assaulted by the applicant or any of his family members. She has stated that she was not happy to come to Goa with Jikorio, as according to her the said Jikorio was not a good person. However, she has stated that she was forcibly sent by her mother and she, therefore was annoyed with her mother.

6. There is really no criminal record in so far as the applicant is concerned. No circumstances are brought on record to suggest that the applicant is likely to flee from justice or tamper with the evidence. In any case substantial conditions can always be imposed on the applicant in this regard. The applicant undertakes to cooperate with the prosecution. The investigation at least as far as the applicant is concerned is substantially complete and there is really no necessity to permit the prosecution to have the custody of the applicant.

7. Upon cumulative consideration of the aforesaid circumstances including in particular the statement of the minor who is stated to

be almost 17 years of age and applying the principles as laid down in the case of SIDDHARAM STLINGAPPA MHETRE V/S. STATE OF MAHARASHTRA AND OTHERS (2011) 1 SCC 694, this is a case where anticipatory bail can be granted to the applicant.

8. Accordingly this application is disposed off with the following order:

ORDER:

(i) In the event of the applicant's arrest, he be released on bail subject to furnishing of bail bond in the amount of Rs.10,000/- (Rupees ten thousand only) and one surety in the like amount to the satisfaction of the concerned investigating officer.

(ii) The applicant is directed not to, in any manner, tamper with the evidence or attempt to interfere with the witnesses.

(iii) The applicant to cooperate with the investigation and shall report to the concerned investigating officer as and when required.

(iv) The applicant shall not leave the State without prior permission of the Children's Court.

(v) The application is disposed of in the aforesaid terms.

M. S. SONAK, J.

ap/-