

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 256 OF 2018

JAI RAVI SHIRODKAR, PRESENTLY AT
COLVALE JAIL, THR. PREMDEEP RAVI
SHIRODKAR.,

... Applicant

Versus

STATE, THR. POLICE INSPECTOR,
CRIME BRANCH, RIBANDER.,

... Respondent

Adv. Ashwin D. Bhobe for the Applicant.
Mr. S. R. Rivankar, Public Prosecutor for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 3rd September 2018

Oral Order:

This is an application for bail. The applicant is the accused no.2. The applicant along with his father has been charge sheeted for the offence punishable under section 302 r/w section 201 of I.P.C in Sessions Case no.7/2018 before the learned Sessions Judge at South Goa, Margao. The allegation is that the applicant and the co accused in furtherance of their common intention has caused the death of Shantaram Shanu Shirodkar by burning. The accused no.1 (father of the present applicant) has been released on bail by this Court inter alia on the ground that he is 70 years old and is stated to be infirm and on the ground that there was no recovery of any incriminating article at his instance. The learned Sessions Judge has rightly found that there is no parity which can

arise between the present applicant and the accused no.1. However, the learned Sessions Judge has refused to grant bail to the applicant on two grounds. Firstly that there is a discovery panchanama under section 27 of the Evidence Act in which the present applicant had discovered a diesel can and a wooden stick (danda). Secondly, the wife and a minor son of the applicant are prosecution witnesses and in the event the applicant is released on bail, the applicant may make an attempt to win them over and influence the prosecution witnesses.

2. I have heard Shri Bhobe, the learned counsel for the applicant and Shri Rivankar, the learned Public Prosecutor for the respondent.

3. With the assistance of the learned counsel for the parties, I have gone through the charge sheet, the disclosure statement under section 27 of the Evidence Act and the statements of the wife and the minor son of the applicant. Admittedly, there is no direct evidence of the involvement of the applicant available in this case. The matter essentially rests on circumstantial evidence. Prima facie the disclosure statement under section 27 of the Evidence Act would not be sufficient to deny bail to the applicant. The learned Sessions Judge in paras 5 and 6 has made certain observations about the contents of the discovery panchanama. I am afraid that the entire discovery panchanama

cannot be read as evidence even at a prima facie stage. It is only the part of the confessional statement which distinctly relates to the fact discovered which can be taken into consideration as evidence in corroboration. Prima facie the statement of the wife and the son of the applicant also in my considered view would not be sufficient to deny bail to the applicant. The investigation is complete and the charge sheet is filed. The continuous incarceration of the applicant in jail is not necessary. The applicant can be released on bail on conditions. Hence the following order is passed:

ORDER:

- (i) The applicant shall be released on bail on executing a P.R. Bond of Rs.50,000/- (Rupees fifty thousand only) with one or two solvent sureties in the like amount.
- (ii) The applicant shall not tamper or influence the prosecution witnesses or evidence and shall undertake to remain present before the learned Sessions Judge during the course of the trial.
- (iii) The Bail Bonds to be furnished before the learned Sessions Judge.

C. V. BHADANG, J.

ap/-