

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 267 OF 2018

SUNNY MITAPARA, PRESENTLY AT
CENTRAL JAIL, COLVALE, THR. PRIYAL
SHAH.,

... Applicant

Versus

POLICE INSPECTOR, MAPUSA POLICE
STATION, MAPUSA AND ANR.,

... Respondents

Shri Arun De Sa, Advocate for the applicant.
Shri P. Faldessai, Additional Public Prosecutor for the
respondents.

Coram:- C. V. BHADANG, J.

Date:- 10th September 2018

P.C.

This is an application for bail.

2. The applicant is original accused no.5, who along with others, is facing trial for the offences punishable under Sections 143, 147, 148, 324, 326, 307, 120-B read with Section 149 of Indian Penal Code (IPC) and Sections 25 and 27 of the Arms Act. One of the co-accused, namely Mr. Vinay Gadekar has been released on bail by this Court vide order dated 07/08/2018 in CRMAB No.199/2018.

3. Shri Faldessai, the learned Additional Public Prosecutor, in all fairness, does not dispute that in so far as the allegations in the present case are concerned, the case of the applicant stands on the same footing as that of the accused Mr. Vinay Gadekar. It

is submitted that there are certain criminal antecedents to the discredit of the applicant. Reliance is placed on behalf of the State on the judgment of the Supreme Court in the case of STATE OF MAHARASHTRA VS. SITARAM POPAT VETAL AND ANOTHER; (2004)7 SCC 521.

4. I have considered the submissions so made.

5. In the absence of the present applicant being named in the FIR, which is one of the grounds, on which Mr. Vinay Gadekar has been released on bail by this Court, I do not find that parity can be denied to the applicant. The decision in the case of SITARAM VETAL (Supra) turned on its own facts. The existence of prima facie case is the first and foremost consideration while deciding the plea of bail. In that view of the matter, the following order is passed :

ORDER

- (i) The applicant shall be enlarged on bail on executing a Bail Bond in the amount of Rs.50,000/- and one local surety in the like amount to the satisfaction of the learned Additional Sessions Judge, Mapusa, Goa.
- (ii) The applicant shall not intimidate or threaten the witnesses or otherwise thwart the course of justice.
- (iii) The applicant shall not visit the village of Moira till further orders and/or be near anywhere in the vicinity of the scene of crime.
- (iv) In the event of breach of any of the conditions,

the bail is liable to be cancelled.

(v) The application accordingly stands disposed of.

C. V. BHADANG, J.

SMA