

IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL APPLICATION (MAIN) NO. 306 OF 2017.

JOAQUIM PEIXOTO., ... Applicant.

Versus

STATE OF GOA, THROUGH PUBLIC
PROSECUTOR., ... Respondent.

Mr. Arun De Sa, Advocate for the applicant.

Mr. S. R. Rivankar, Public Prosecutor for the respondent.

Coram:- PRITHVIRAJ K. CHAVAN, J.

Date:- 23rd January 2018.

P.C.

The applicant, who has already been released on bail by the Sessions Judge, South Goa on 19.11.2015 for the offences under Sections 376, 323, 504 of IPC has prayed for modification of condition no.4 in the said order so as to release his passport to facilitate him to travel abroad for earning his bread and butter.

2. The learned Additional Sessions Judge, Margao, by order dated 6.11.2017 rejected the application of the applicant for modifying the said condition mainly on the ground that the offences alleged are serious in nature and the report from CFSL, Hyderabad in respect of Mobile phones of Micromax make X320, Blackberry mobile make curve 9200, HTC mobile and two laptops of make Dell are yet to be received.

3. I heard Shri Arun De Sa, learned Counsel for the applicant who submits that the applicant is a resident of Goa residing with wife and daughter. In order to earn his livelihood, he being a seaman will have to travel abroad for his employment and, therefore, prayed for release of his passport. The learned Counsel submits that he would inform the Court a week before leaving the Country about the details of his places of visit and also abide by any terms and conditions which would be imposed by this Court. It is also submitted that the applicant would remain present at the time of recording his statement under Section 313 of Cr.P.C. and also at the time of judgment.

4. Learned Public Prosecutor in the reply, objected the application by stating that apart from reason of non receipt of CFSL report from Hyderabad, it is submitted that the applicant being a seaman, there is likelihood of his abscondee in case of release of passport which would hamper the prosecution case and would cause delay in giving justice to the victim.

5. However, it is orally submitted by the learned Public Prosecutor that the prayer of the applicant may be granted by imposing suitable terms and conditions.

6. No doubt, the offences are serious in nature, however, it can be seen that the applicant has already been released on bail by the trial Court. It is not the case of the prosecution that ever since his release on bail the applicant has breached any of the conditions of the bail. Photostat copy of the visa of the applicant issued by United States of America, photostat copy of passport and photostat copy of seaman's record book issued by Commonwealth of the Bahamas indicates occupation of the applicant who was in the rank of Junior Bar Server. It appears that he is required to go abroad for the purpose of his employment and, therefore, in view of the aforesaid facts, it would be just and proper to modify condition no.4 in the order of bail dated 19.11.2015 passed by the learned Sessions Judge. However, applicant shall not misuse the liberty granted in his favour and shall return to State of Goa as and when directed by the Sessions Court.

7. In view of the aforesaid observations following order is passed:-

ORDER

- i. Application is allowed.
- ii. Condition no.4 in the order dated 19.11.2015 stands modified and the applicant is permitted to travel abroad after giving 15 days clear advance notice to

the Sessions Judge Margao indicating the details of all the places of visit and the period of stay at each place.

- iii. Applicant shall give an undertaking in the Sessions Court that he will attend the Sessions Court for recording his statement under Section 313 of Cr.P.C. and also on the date of the judgment.
- iv. Applicant shall also furnish his cell number to the Investigating Officer so that Investigating Officer would be in a position to immediately contact the applicant as and when required.

8. In view of the aforesaid terms and conditions, application stands disposed of.

PRITHVIRAJ K. CHAVAN, J.

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