

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. (BAIL) NOS.133 & 134 OF 2019
CRIMINAL MISC. (BAIL) NO.133 OF 2019

Rahul Remesh Arlekar.		Applicant.
Versus		
State of Goa through Public		
Prosecutor and anr.		Respondents.

CRIMINAL MISC. (BAIL) NO.134 OF 2019

Pranam Vinay Naik.		Applicant.
Versus		
State of Goa through Public		
Prosecutor and anr.		Respondents.

Mr.Vibhav Amonkar, Advocate for the Applicants.

Mr. Mahesh Amonkar, Additional Public Prosecutor for the State-
Respondents.

Coram : P.D. Naik, J.

Date : 8th May, 2019.

P.C.:

1. The Applicants, in both these applications, are seeking bail in connection with Crime No.51/2019, registered with the Porvorim Police Station for the offences under Sections 307, 323, 324 and 325 of the Indian Penal Code. The Applicant in Criminal Misc. Application No.133/2019 was arrested on 28th March, 2019 and the

Applicant in Criminal Misc. Application No.134/2019 was arrested on 29th March, 2019. Presently, both the Applicants are in Judicial Custody.

2. The case of the prosecution, as enumerated from the FIR is that on 21st March, 2019, the complainant was assaulted by four persons. It is alleged that accused Mayur and Krishna had assaulted the complainant and others by giving blows of knives. It is also alleged that there were two other unknown persons who had also participated in the assault. The Applicants were subsequently arrested. According to the prosecution, the CCTV footage of the place of the incident was recovered during the course of investigation and the presence and participation of the Applicants in the crime has been established from the said CCTV footage. The role of assaulting the victims by the weapons is attributed to the co-accused Mayur and Krishna. The Applicants allegedly participated in the crime by assaulting the victims by fist and kick blows.

3. The learned Counsel for the Applicants submits that the only role that has been attributed to the Applicants is that they had assaulted the victims by fist and kick blows. Primary role of assaulting by weapons is attributed to the co-accused. The applications for bail were rejected by the learned Additional Sessions Judge vide orders dated 20 April 2019 on the ground that the CCTV

footage shows the participation of the Applicants in the crime and it is necessary to conduct a test identification parade. The learned Counsel submits that the identification parade is thereafter conducted. Nothing is recovered from the Applicants. The weapons used in the assault are to be recovered from the co-accused.

4. Whereas, the learned Additional Public Prosecutor submits that the presence and participation of the Applicants in crime has been established. The CCTV footage indicates that the Applicants had assaulted the victims by fist and kick blows. It is further submitted that all the accused had committed the crime jointly and they had come at the place of the incident together. The Applicants are identified in the identification parade. The co-accused are absconding.

5. I have perused the documents on record, as well as the Say filed by the prosecution. Admittedly, the incident had occurred on 21 March 2019. The Applicants were arrested on the date as stated herein above. The role attributed to the Applicants is of assaulting the victims by fist and kick blows. The identification parade was conducted belatedly on 6th May, 2019. Nothing is recovered from the Applicants while they were in custody. They are presently in the Judicial Custody. The Applications were rejected by the learned Additional Sessions Judge primarily on the ground that the test

identification parade was required to be conducted. The role of assaulting by weapons is attributed to the co-accused and the weapons are to be recovered from them.

6. Considering the role attributed to the Applicants and the circumstances as stated herein above, further custody of the Applicants is not necessary and a case for granting bail on certain conditions is made out.

Hence, I pass the following order :

(i) Criminal Misc. Application No.133/2019 and Criminal Misc. Applicant No.134/2019 are allowed.

(ii) The Applicants are directed to be released on bail in connection with Crime No.51/2019 registered with the Porvorim Police Station on execution of personal bond in the sum of ₹ 20,000/- each, with one or more sureties in the like amount.

(iii) The Applicants shall report Porvorim Police Station once in a week on every Friday between 11.00 a.m. to 1.00 p.m. till filing of the Charge-sheet and thereafter, once in a month on first Saturday of the month between 11.00 a.m.to 1.00 p.m. till further orders.

(iv) The Applicants shall not tamper with the evidence.

7. The Applications stand disposed of accordingly.

P.D. Naik, J.