

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.157 OF 2019

Binayak Thapa, presently at
Central Jail, Colvale. Petitioner.

Versus

State of Goa and others. Respondents.

Ms. Prema Matkar, Advocates for the Petitioner.

Mr. Gaurish Nagvekar, Additional Public Prosecutor for the
Respondents.

***Coram : S.C. Gupte &
Nutan D. Sardesai, JJ.***

Date : 5th July, 2019.

P.C. :-

Heard learned Counsel for the Petitioner and learned Addl.
Public Prosecutor for the State.

2. The Petition challenges an FIR, registered against the
Petitioner, who is an accused in Criminal Case No.52/19/B, as well as
the charge-sheet issued in pursuance of the final report. In the
criminal case, the case of the prosecution is that a theft of two
condensing units (external) of ACs was reported by a Vocational
Instructor of Panaji GIIT, Altinho, Panaji. The FIR was initially
registered against unknown accused for commission of the theft. The
Petitioner was arrested on 26/02/2019 and at his instance, one of the
two stolen articles was recovered. The Petitioner was, thereafter,
remanded to judicial custody and after investigations and final report,

a charge-sheet has been filed before the Judicial Magistrate, First Class, "B" Court, Panaji. The Petitioner is presently in judicial custody at Central Jail, Colvale.

3. Learned Counsel for the Petitioner takes us through a confessional statement, purportedly recorded whilst making a panchanama under Section 27 of the Indian Evidence Act. Learned Counsel seeks to pick holes in the so called confessional statement. Learned Counsel also submits that there is no proper investigation and that the Petitioner has been falsely implicated in the criminal case.

4. These are all matters of trial. The FIR registered in the case and investigations made by the police including the Panchanama made under Section 27 of the Indian Evidence Act make out a case for framing of charges. It is the case of the Prosecution that the stolen article was discovered in consequence of the information received from the accused. The question whether such information amounts to a confession or not, is a matter of trial; it is to be proved at the trial. No interference is warranted at this stage.

5. The Criminal Writ Petition is accordingly dismissed. It will be for the Petitioner to apply for bail before the Court of JMFC, "B" Court Panaji on grounds available to him in law.

Nutan D. Sardesai, J.

S.C. Gupte, J.