

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO. 49 OF 2020

SHAILESH GARAD, PRESENTLY LODGED

AT JUDICIAL LOCK UP, COLVALE ... Applicant

Versus

STATE, AS REP. BY THE OFFICER

INCHARGE, MAPUSA POLICE STATION,

MAPUSA AND ANR. ... Respondents

Shri Kamlakant Poulekar, Advocate for the applicant.

Shri Pravin Faldessai, Additional Public Prosecutor for the respondents.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 11th February, 2020

ORDER:

Heard Shri K. Poulekar, learned Advocate for the applicant and Shri P. Faldessai, learned Public Prosecutor for the respondent/State, who has also filed the reply opposing the application.

2. It was the contention of Shri Poulekar, learned Advocate that he was entitled to the benefit of bail on the grounds of parity as one of the co-accused was enlarged on bail pursuant to the

order of this Court dated 03/02/2020. Secondly, the offence alleged against him took place between the group of the complainant and the applicant and his friends and that there was no involvement of the sword in the assault. It was further his contention that the Hurt Certificate showed the injured assaulted by a group of people with knives and glass bottles. Therefore, he was entitled to the benefit of bail looking also to the nature of the injuries suffered by the injured.

3. Shri Pravin Faldessai, learned Additional Public Prosecutor submitted that the offences with which the applicant stood charged were grave and serious in nature and that he should not be enlarged on bail. He was the prime accused in the Crime and there were several other offences registered against him at the Mapusa Police Station, Calangute Police Station, Agassaim Police Station, Anjuna Police Station and Bicholim Police Station under various Sections of the IPC apart from Sections 5, 20 and 25 of the Arms Act, 1959. Therefore this application had to be dismissed.

4. Shri Poulekar, learned Advocate in reply submitted that the applicant had been acquitted in most of the cases except two

cases pending against him and for which he has been regularly attending the Court.

5. Looking to the tenor of the application and that the incident occurred in a free fight between the parties and the injuries suffered by the injured were simple injuries and on the grounds of parity the applicant would be entitled to the benefit of bail in the facts of this case.

6. In these circumstances, i allow the application on the following terms and conditions:

1. The applicant shall be enlarged on bail on executing bail bonds in the amount of ₹25,000/- (Rupees Twenty Five Thousand only) and furnishing one local surety in co-extensive amount to the satisfaction of the learned Additional Sessions Judge, Panaji.
2. The applicant shall co-operate with the trial and ensure his presence on all the dates of the hearing
3. The applicant shall not tamper with or intimidate the witnesses or hamper the course of the trial in any manner whatsoever.

4. The applicant shall also not leave the State of Goa and the territorial waters of India without the prior written permission of the learned Trial Court.
7. The observations made in this matter are prima facie germane to this case and would not operate as a precedent in framing charge at the appropriate stage.
8. In these terms the application stands disposed off.
9. Parties to act on the basis of the authenticated copy of this order.

NUTAN D. SARDESSAI, J.

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