

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO. 87 OF 2020

VIJAY KARBOTKAR., ... Applicant

Versus

STATE, THR. POLICE INSPECTOR,
PORVORIM, POLICE STATION, PORVORIM
AND ANR., ... Respondents

Shri Ashwin D. Bhobe, Advocate for the applicant.

Shri P. Faldessai, Additional Public Prosecutor for the
respondents- State.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 14th July, 2020

P.C.:

Heard Shri A.D. Bhobe, learned Advocate for the applicant who submitted that the applicant was seeking bail in anticipation of arrest in Crime No.120 of 2019 under Section 325 IPC amongst others and Section 25 of the Arms Act in which the maximum punishment was 7 years of rigorous imprisonment. Two of the accused had been released on bail in anticipation of arrest pursuant to the order of this Hon'ble Court and therefore the applicant too was entitled to the benefit of bail in anticipation of arrest on the ground of parity. The investigation was complete and there was no basis to detain the applicant to ascertain the motive or to recover the weapon. A plea set up on behalf of the

respondents that the applicant was a history sheeter was also not a ground to deny the benefit of bail to him and therefore necessary orders be passed in his favour.

2. Shri Pravin Faldessai, learned Additional Public Prosecutor on behalf of the State submitted that the applicant had been evading arrest from the time of the commission of the offence on 25/10/2019 and then he had been not available to the police for either ascertaining the motive for the commission of the crime or to facilitate the recovery of the weapons of assault including the gun used to threaten the complainant. The offences alleged against the complainant were serious in nature where the applicant was assaulted with a bottle, koita etc. The CCTV footage clearly showed that the applicant was instrumental in threatening the complainant armed with a gun and he was not available for interrogation. He was the main accused in the crime and several other offences were registered against him and besides being a history sheeter he was not entitled to any leniency by way of the benefit of bail and therefore no leniency could be shown to him by granting the relief in his favour. Last but not the least the mere ground that the applicant had made himself available in the Registry of this Court for verification of the application was not a ground to entertain his plea that the applicant was readily available to the police and that he was not absconding. Rather he was absconding from the date of the

commission of the crime and therefore his arrest was necessary for unearthing the crime and to complete the investigation.

3. I have heard the submissions of Shri A.D. Bhobe, learned Advocate for the applicant and Shri Pravin Faldessai, learned Additional Public Prosecutor for the respondents - State. There is no particular dispute at the instance of the applicant that there are several cases registered against him at the Porvorim and Mapusa Police Stations and being serious offences under Sections 394, 302, 384, 307, 326 amongst others and that to all intents and purposes he is a history sheeter as laid bare on behalf of the State. Undoubtedly, the offence took place on 25/10/2019 and since then the applicant had not been available to the police for carrying out the detailed investigation into the crime to ascertain the motive and also to establish the role played by the applicant who is supposed to be the main accused in the crime alleged against him under Section 325 of IPC amongst others and Section 25 of the Arms Act. He is alleged to have threatened the applicant at gunpoint and caused grievous injuries to the complainant besides which he has not been available to the police for interrogation.

4. There has also not been any rebuttal of the fact that the CCTV footage showed that the applicant was armed with a gun pointed towards the complainant and threatened him at gunpoint.

The presence of the applicant in the circumstances would be required to unearth the crime and the mere fact that two other suspects had been granted anticipatory bail is not a ground to apply the principle of parity and order the release of the applicant on bail in anticipation of arrest where he had played a major role in the commission of the offence. Furthermore, the weapons of assault are also to be recovered including the gun in question and the custodial interrogation of the applicant would be necessary to facilitate the course of investigation. In the circumstances, therefore i do not find any merit in the application which is accordingly dismissed.

NUTAN D. SARDESSAI, J.

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