

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO. 10 OF 2021

Sunny Chauhan Applicant
Versus
State of Goa, Thr. the Police
Inspector, Office-in-Charge &
Another Respondents

Mr. Rohan P. Desai, Advocate for the Applicant.

Mr. Pravin Faldessai, Additional Public Prosecutor for the Respondents.

Coram:- M.S. JAWALKAR, J.

Date:- 20th January, 2021

P.C.

Heard Mr. Rohan Desai, the learned Counsel for the applicant and Mr. Pravin Faldessai, the learned Additional Public Prosecutor for the Respondents.

2. The present application is filed under Section 439 of the Code of Criminal Procedure for regular bail.

3. The applicant has been arrested by the respondent no. 1 in Crime No. 152/2020 under Section 143, 144, 147, 148, 307, 302 of the IPC.

4. It is the case of the prosecution that on 31.07.2020 there was a fight between two rival persons resulting in death of an individual and injury to another, thereby leading to two complaints of the rival groups.

5. The learned Additional Public Prosecutor, Mr. Pravin Faldessai submitted that the offence is of serious nature and if the applicant is released on bail he may tamper with the witnesses.

6. On going through the complaint dated 04.05.2020 there is no whisper of the applicant assaulting the deceased. From the complaint it also appears that there was some altercation between the said Malik (deceased) and some persons and on some abusive words Malik (deceased) hit the said person with a wooden danda and while going inside the market, Malik, threw the wooden danda and took iron pipe lying on the floor of the inner side of the market. In the said complaint, there is no whisper of the applicant assaulting Malik. It appears that a supplementary statement came to be recorded on the same day, however, no time is mentioned.

Both the statements are recorded at the Calangute Police Station. In the said supplementary statement, the complainant stated that from his sources he had learned that the names of some of the assailants are Sikandar, Mithun, Sunny, Thapa, Chandu, Punjabi etc. In the complaint he said that all the persons were unknown to him, whereas he appears to be acquainted with the applicant herein but he has not taken his name as assailant.

7. *Prima facie*, the applicant's role, which reveals from the complaint is that he had taken some amount on the pretext that he will give him a mobile and when the complainant made inquiry with Malik, he told said Malik that he is returning his money. There are no criminal antecedents against the applicant. Investigation is already over and chargesheet is also filed. The applicant is ready to abide by any conditions put by the Court.

8. It is submitted that the other accused are already released on bail by this Court. As such, no purpose would be served by keeping the applicant behind the bars, specifically

when no role is attributable to him in the alleged offence is prima facie made out. Nothing has been recovered or to be recovered from the applicant. The learned Additional Public Prosecutor submitted that there is every possibility that the applicant may not be available at the time of trial as he is native of Uttarakhand State. This apprehension can be taken care of by imposing stringent conditions on the applicant while releasing him on bail. Just because he is resident of some other State, he cannot be kept behind bars.

9. It is a matter of record that four of the accused persons are already released on bail. Considering the role attributable to the applicant, it would be proper to release him on bail, subject to following conditions:

- (a) The application is allowed.
- (b) The applicant, Mr. Sunny Chauhan is directed to be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- and on furnishing two sureties in the like amount to the satisfactions of the learned Additional Sessions Judge, Mapusa.

- (c) The applicant shall furnish his permanent address to the Court.
- (d) The applicant shall attend the hearing of the case on the dates fixed by the Trial Court.
- (e) The applicant shall not leave the state of Goa without prior permission of the learned Additional Sessions Judge, Mapusa.
- (f) The applicant shall not influence, induce, threaten or coerce the witness.
- (g) The applicant's failure to abide by these conditions, will entail the prosecution to apply for cancellation of bail.
- (h) The application is disposed of in the aforesaid terms.

10. Parties to act on the authenticated copy of the order.

M.S. JAWALKAR, J.

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