

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (BAIL) NO. 9 OF 2021

Vipin Khadiya
Presently in Judicial Custody
at Colvale, Goa.

..... Applicant

V e r s u s

1. State of Goa,

Thr. The Police Inspector & anr.

..... Respondents

Mr. Rohan P. Desai and Mr. Ritesh Rawal, Advocates for the Applicants.
Mr. Mahesh Amonkar, Additional Public Prosecutor for the State-
Respondents.

CORAM : M. S. JAWALKAR, J.

DATE: 25th January, 2021

ORDER

Heard Mr. Rohan Desai, learned Counsel for the applicants
and Mr. Pravin Faldessai, learned Additional Government Advocate for the
Respondent-State.

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

3. The applicant is arrested by the respondent no.1-Konkan
Railway Police Station, Margao, in Crime No.04/2020, under Sections

302, 201, 341 read with Section 34 of the Indian Penal Code.

4. It is the case of the prosecution that on 21.01.2020, some unknown persons committed brutal murder of a male person and fled away from the spot. During investigation it has been revealed that the deceased and one Vikram Khadiya had enmity over the family issue wherein Vikram Khadiya under the influence of alcohol raised quarrel with the deceased and had heated arguments and further coerced the deceased to proceed towards the nearby railway track and along with other four colleagues brutally murdered the deceased by assaulting him with sharp weapon.

5. It is further submitted that applicant is in custody since January 2020 and the necessary investigation in the matter has been complete and chargesheet has been filed before this Court. There is no role of applicant that can be attributed to the said incident from the investigation and he is unnecessary in incarceration without any reliable and cogent evidence.

6. Learned Counsel for the Applicants, Shri Rohan Desai, drew my attention to the complaint which is registered against unknown person. He also pointed out that statement of Smt. Shital Gopen, came to be recorded, who was having live in relationship for last ten years with

deceased Jaleshwar @ Kakakadia. She also named Vikram Khadiya had assaulted Jaleshwar as the same was informed to her by said Vinod Bagdu. She also stated that the said Vikram @ Tabde had valid reason to commit the murder. He also pointed out from the confessional statement recorded under Section 164 of Cr.P.C. of one Vinod Kullu Bagdu who also named Vikram @ Tabde as the assailant.

7. Learned APP filed his say to the application that during the course of investigation it is revealed that the applicant along with other accused met together and consumed alcohol and under the influence of alcohol had some heated arguments and suddenly disappeared from the spot. It is also further revealed that Mr. Vikram Khadiya and the deceased had an enmity over the family issue. It is further submitted that clothing of the accused person attached under panchanama having blood stains. The weapon is also recovered at the instance of Vikram Khadiya. During investigation, confessional statement of Vinod Bagdu came to be recorded under Section 164 of the Criminal Procedure Code. Name of Vikram appears to be accused who inflicted injuries and bruises. However, the said Vinod Bagdu including present applicants along with others did not inform

to the police. As such, applicant is not entitled for any bail. Moreover, they belong to Bihar and therefore there is every possibility of their fleeing from the State of Goa at the time of trial. They may tamper with the evidence or threaten the witnesses.

8. After going through the copy of chargesheet placed on record, it appears, *prima facie*, that name of the accused Vikram @ Tabde Khadiya is taken by the acquainted witnesses as the assailants. However, the other accused, though knowing that such offence is committed, they have not informed to the police. However, they are not, *prima facie*, appears to be played any role in committing murder of deceased Jaleshwar. However, it is, *prima facie*, observations for considering the bail applications. The chargesheet is filed. Considering the pendency, the trial appears that it cannot be concluded in the near future. No purpose will serve by keeping the applicants behind the bars. So far as apprehension disclosed by the APP is concerned, that can be taken care of by imposing stringent condition on the applicants.

9. Hence, I pass the following order :

ORDER

- (i) The application is allowed.
- (ii) The applicant Mr. Vipin Khadiya is directed to be released on bail on his executing PR 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, Fast Track Court, Panaji.
- (iii) The applicant shall furnish his permanent address to the Court.
- (iv) The applicant shall attend the hearing of the case on the dates fixed by the Trial Court.
- (v) The applicant shall not leave the state of Goa without prior permission of the learned Additional Sessions Judge, Fast Track Court, Panaji.
- (vi) The applicant shall not influence, induce, threaten or coerce the witness.
- (vii) The applicant's failure to abide by these conditions, will entail the prosecution to apply for cancellation of bail.
- (viii) The applicant shall attend the Konkan Railway Police Station, Margao, on 1st of every month till conclusion of trial.
- (ix) The application is disposed of in the aforesaid

terms.

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

M. S. JAWALKAR, J.

ANDREZA PEREIRA  Digitally signed by ANDREZA PEREIRA
Date: 2021.01.25 18:24:29 +05'30'