

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (BAIL) NO. 13 OF 2021

Balchandar Naik
Presently in Judicial Custody
Jail, Colvale.

..... Applicant

V e r s u s

State of Goa,
Thr. Public Prosecutor and Anr.

..... Respondents

Mr. Vibhav Amonkar, Advocate for the Applicant.

Mr. S. G. Bhobe, Public Prosecutor for the Respondent-State.

Coram :- M. S. JAWALKAR, J.

Date : 3rd February, 2021

P.C.

Heard learned Counsel Shri Vibhav Amonkar for the applicant and
learned Public Prosecutor Shri S. G. Bhobe for the respondent-State.

2. This is an application for bail filed by the applicant under Section 439
of the Criminal Procedure Code.

3. It is the case of the applicant that he was arrested on 10.08.2020 in
Crime No.136/2020 under Sections 143, 148, 307, 326, 354, 504 r/w
Section 149 of the Indian Penal Code.

4. The case of the prosecution is that there was a fight and some misunderstanding between the accused and his family with the complainants family over the property dispute and they are the relatives of each other. The complainant and his family were constructing their house and encroached in the property of the accused and when the father of the accused went to ask the complainant, the complainant assaulted the father of the accused. The altercation of words took place between the complainant and his family members and that of the applicant and his family members, as such, the complainant filed complaint against him at the Ponda Police station and the applicant has been arrested by the Ponda Police Station on 09.08.2020 under Sections 143, 148, 307, 354, 504 read with Section 149 of IPC.

5. The applicant was arrested on 10.8.2020; he has still been in judicial custody. His application to the trial Court met with failure. Now he has come before this Court with this application under Section 439 of Cr.P.C.

6. The learned Counsel for the applicant argues that the entire prosecution case does not attribute any overt act to the applicant. Even the complaint does not disclose anything against the applicant. According to

him, he is already in judicial custody for more than five months.

7. It is also pointed out that now chargesheet is filed. No purpose will serve by detaining the applicant in custody. Accused nos.1 and 2 are already released on bail. No role attributable to this applicant is made out other than what the role accused Sadanand played. The said accused is released on bail.

8. In response, the learned Additional Public Prosecutor has contended that this Court may keep in mind the gravity of the offence. According to him, they are neighbours, and there is still potential for a flare-up of violence should the applicant be released on bail. The apprehension expressed by learned APP can be taken care by imposing stringent conditions. It reveals from the complaint that it is a result of personal family rivalry. There is no criminal antecedent and applicant is having roots in the society.

9. Under these circumstances, I pass the following order:

ORDER

(i) The applicant is directed to be released on bail on her executing P.R. Bond for Rs.25,000/- and on his furnishing two sureties, each for the like sum, to the

satisfaction of the learned Additional Sessions Judge, Panaji, sitting at Ponda.

(ii) The applicant should not leave the State of Goa, without prior permission of the learned Additional Sessions Judge, Panaji, sitting at Ponda.

(iii) The applicant shall attend the hearing of the case on the dates fixed by the trial Court.

(iv) The applicant shall not influence, induce, threaten, or coerce the witness; nor should he abuse the process.

(v) The applicant shall not cause any obstructions to the neighbours enjoying their property, nor should he trespass upon their property.

(vi) The applicant's failure to abide by these conditions will entail the prosecution to apply for the cancellation of bail now granted to the applicant.

(vii) The Bail Application stands disposed of.

M. S. JAWALKAR, J