

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION (BAIL) NO. 18 OF 2021

Swapnil Sakharam Parab

..... Applicant

V e r s u s

The State of Goa,
Thr. Police Inspector
Pernem Police Station,
Pernem .

..... Respondent

Mr. Ryan Menezes and Mr. Nigel Fernandes, Advocates for the Applicant.

Mr. Pravin Faldessai, Additional Public Prosecutor for the State-Respondent.

Coram :- NITIN W. SAMBRE, J.

Date : 25th March, 2021

P.C.

This is a pre-arrest bail application of the applicant-accused in Crime No. 185/2020 registered on 06.11.2021 for an offence punishable under Section 504, 356, 379 read with Section 506(II) of the Indian Penal Code.

2. The complainant in the said matter, Mr. Keshav, is working as a Traffic Marshal, who alleged to have been assaulted by the applicant at about 17.50 hours near Government Primary School. It is also alleged that

Applicant also snatched the silver chain worth about ₹ 12,000/-.

3. The case of the applicant is, before the registration of the offence against him, on 05.11.2020 at 7.00 p.m., he made a call to the Police Control Room and after the police vehicle was sent to attend the call of the applicant. He having suffered injuries got medication at Primary Health Centre. The learned Counsel submits that the earlier criminal history of the applicant cannot be relied on for rejecting the prayer as majority of the offences are registered based on political in nature of complaint. He would further urge that custodial interrogation of the applicant is not warranted in the facts and circumstances of the case and has relied on the judgment of the Apex Court, in the matter of ***Arnesh Kumar vs. State of Bihar & anr.***, reported in ***2014 ALL SCR 2542***. The submissions are, no summons are served and, that being so, the custody is not warranted. It is also claimed that the applicant is very much available for the investigation.

4. The prosecution prayed for rejection of the prayer based on the *prima facie* involvement of the applicant in the crime.

5. The applicant claimed that on 05.11.2020, at 7.00 p.m., he

gave a call to the Police Control Room, however, when verified, the applicant was not found at the spot from where he had given the call and rather avoided the police party thereby giving an excuse that he is going to the office of SDPO, Mapusa. It also revealed from the record that the applicant took medical treatment on 06.11.2020 from the Medical Officer, Primary Health Centre, Pernem, Goa.

6. In that view of the matter, the claim of the applicant that at about 7.00 p.m. of 05.11.2020 he was assaulted by the complainant Keshav, Traffic Marshal, does not appear to be correct. The claim of the applicant that he has left his home as was not getting mobile signals for making certain Google payment, also is not justified as no details of such payment made by the applicant are placed on record.

7. The Judgment in the matter of ***Arnesh Kumar*** (supra) will be of hardly any assistance particularly when there are about 14 criminal cases pending against the applicant. The offences under which he is booked, does not justify his claim that his involvement in the aforesaid 14 cases was because of political enmity.

8. This Court needs to be sensitive to the fact that the offence

came to be registered against the applicant at 00.10 hours on 06.11.2020 for an incident of assault attributed to the applicant taken place at around 17.00 hours. There is material on record to infer that the complainant was having a silver chain. Merely because the applicant has lodged a complaint that by itself will not lead this Court to infer his false implication. Rather, the conduct noted above, reflects that the applicant has avoided the police party when they tried to attend him in response to his phone call made to the Police Control Room.

9. In the backdrop of the aforesaid, in my opinion, the custodial interrogation of the applicant appears to be necessary.

10. No case for grant of pre-arrest of bail is made out. The application, as such, stands dismissed.

NITIN W. SAMBRE, J.