

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (Bail) NO.36/2021.

UMESH LAMANI @ RATHOD, ...Applicant.
PRESENTLY IN JUDICIAL CUSTODY
AT CENTRAL JAIL COLVALE

VS
STATE OF GOA, THR. PUBLIC
PROSECUTOR AND ANR. ... Respondents.

Shri K. Raikar, Advocate for the applicant.

Shri M. Amonkar, Addl. Public Prosecutor for the State.

Shri Inderpal Singh and Shri J. Patil, Advocates for the Applicant.

Coram: SMT. M.S. JAWALKAR, J.

Date : 9th March, 2021

P.C.:

The applicant is the accused in Crime No.150/2018, for the alleged offence under Sections 302 read with Section 34 of IPC.

2. Brief facts of the case are as under:-

The applicant is a citizen of India and presently lodged in Judicial custody. He is resident of Gadag, Karnataka and

presently residing in Goa for last 15 years. The applicant was arrested on 8.8.2019. It is further case of the applicant that he is young, innocent and falsely implicated in the said crime and that the investigation in the present crime is complete and chargesheet sheet has been filed. He further states that witnesses are yet to be examined. It is further case of the applicant that the bail application filed before the Additional District Sessions Judge is rejected on 12.11.2020.

3. It is further case of the applicant that presently entire world is facing a pandemic due to outbreak of COVID-19 and, therefore, he faces grave threat of being infected with the above disease if remained in custody due to congestion in the prison cell. It is further case of the applicant that due to pandemic there is every possibility of trial getting delayed. It is further case of the applicant that there are no criminal antecedents. It is further case of the applicant that he is ready to abide by the conditions this Hon'ble Court may deem fit.

4. On the other hand, Shri M. Amonkar, the learned Additional Public Prosecutor has opposed the application and submitted that the order passed by the learned Additional Sessions Judge is justified in the facts and circumstances. It is pointed out that there are eye witnesses. The offence is heinous and serious and punishable with life or death. The witnesses identified the accused. There is recovery at the instance of the accused no.1 and at the instance of accused no.2 there is disclosure where from the weapons purchased. There is CFSL report showing presence of blood stains of the deceased on the clothes of the accused. Apart from this the accused are not belonging to Goa.

5. I have considered contentions of both the parties. It is the case of the prosecution that there are eye witnesses who has also identified the accused persons in identification parade. There are incise penetrating injuries caused by sharp cutting stabbing weapon. The CFSL report has been received in respect to the clothes and shoes. The clothes and shoes of the accused nos. 1 and 2 shows biological

material related to the deceased present on the articles which was sent for DNA profiling. So far as pandemic situation of COVID-19 is concerned already vaccination process is on.

6. Considering the nature of offence punishable with life and death and taking into consideration other facts on record, there is every possibility of the accused interfering and threatening the witnesses. The matter is ripe for trial as observed by the learned Additional Sessions Judge, Mapusa. I am, therefore, declined to enlarge the applicant on bail. Accordingly, the application is dismissed.

M.S. JAWALKAR, J.

VN*

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