

Andreza

**IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO. 5 OF 2023**

Sujeet Kumar Andia, Presently in Judicial
Custody at Central Jail, Colvale ... Applicant

Versus

State of Goa, Through the Public Prosecutor ... Respondents
& anr.

**Mr. Anoop Balkrishna Kudtarkar, Advocate for the
Applicant.**

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

**CORAM: B. P. COLABAWALLA, J
DATED: 28th FEBRUARY 2023**

ORAL ORDER

1. The above Application is filed under Section 439 of the Code of Criminal Procedure, 1973, (Cr.P.C.), seeking bail.

2. The learned Advocate appearing on behalf of the Applicant-Accused No.2 submitted that the Applicant was arrested by the Investigating Officer attached to the Anjuna Police Station, Anjuna, Goa on 22nd April 2022 in Crime No. 83 of 2022, registered under Section 370(A) and Section 370(3) of the Indian Penal Code (IPC). The Applicant maintains his innocence and states that he has been wrongly implicated.

3. The learned Advocate appearing on behalf of the Applicant-Accused No.2, submitted that in the present case, the investigation is completed and the Final Report of the Police under Section 173 of the Cr.P.C./chargesheet is already filed. Presently the matter is pending for framing of charge before the Hon'ble Additional Sessions Judge at Mapusa, Goa.

4. The learned Advocate brought to my attention that on 4th July 2022, the Applicant had filed an Application seeking bail before the Additional Sessions Judge at Mapusa, which was rejected on 30th July 2022. The sole ground on which the Bail Application was rejected was that the address of the Applicant was not verified. Accordingly, thereafter, the Applicant made an Application to the Investigating Officer of Anjuna Police Station to verify the address given by the Applicant-Accused No.2. He submitted that the Anjuna Police Station thereafter verified the address of the Applicant. Accordingly, the Applicant filed another Bail Application before the Additional Sessions Judge at Mapusa being Bail Application No. 208/2022. This Application was also rejected by the Sessions Judge by Order dated 20th September 2022. The learned Advocate took me through this Order and submitted that the learned Judge, whilst rejecting the Bail Application, has proceeded on a completely wrong premise. He submitted that the only ground on which Bail Application was dismissed was on the footing that in the absence of

any proof, mere verification of the address by the Investigating Officer, would not be sufficient to release the Applicant as there is every possibility of the Applicant jumping bail as he is from Maharashtra (wrongly mentioned in the Order as Himachal Pradesh). The learned Advocate submitted that in the facts of the present case, the State filed a reply to the above Bail Application and though the same was opposed, a categorical statement was made in the said reply that the address provided by the Applicant-Accused No.2 has been verified through the local Police and the same is found genuine. He submitted that once this was the case, there was no occasion for the Sessions Judge to come to the finding that there was no proper verification of the address of Accused No.2. He, therefore, submitted that bail ought to be granted.

5. Without prejudice to the aforesaid argument, the learned Counsel for the Applicant-Accused No.2 also pointed out that Accused No.1 has already been granted bail by the very same Court by its Order dated 1st July 2022. He, therefore, submitted that on parity, even Accused No.2 be granted bail on the same conditions that were imposed on Accused No.1, when he was released on bail.

6. On the other hand, Mr. Faldessai, the learned Additional Public Prosecutor, fairly submitted that the address provided by Accused No.2 before the Hon'ble Sessions Court has in fact been

verified through the local Police, and the same is found to be genuine. He however submitted that if Applicant-Accused No.2 is released on bail, there is every possibility that the Applicant-Accused No.2 may procure the victim girls and again force them for prostitution activities. He has further submitted that if the Applicant-Accused No.2 is released on bail, there is every possibility that he may threaten the victim girls and witnesses in this case and considering that he is a native of Mumbai, Maharashtra, and does not have any fixed place of abode in Goa, there is every possibility that he may jump bail and may evade facing trial. He, therefore, submitted that the Bail Application be rejected.

7. I have heard the learned Counsel on behalf of the parties. I have also perused the papers and proceedings in the above Bail Application.

8. I have gone through the Order passed by the Sessions Judge granting bail to Accused No.1. That Order is dated 1st July 2022. The same arguments that are canvassed before me were also canvassed by the State opposing the Application granting bail to Accused No.1. The Sessions Judge, after hearing the parties, came to the conclusion that now the investigation is complete and the chargesheet is also filed. The Court noted that Accused No.1 was in judicial custody and was a native of Karad, Maharashtra, and the

Investigating Officer had verified his address in Maharashtra. The Court further noted that there are no antecedents disclosed by the Investigating Officer in the reply and Accused No.1 could be released by imposing certain conditions on the said Accused. Bail was accordingly granted to Accused No.1.

9. In the present case, I find that the facts are almost identical. The present Applicant also is a native of Maharashtra, and as stated by Mr. Faldessai, his address has also been verified by the local Police and has been found genuine. Here also no antecedents of Accused No.2 are disclosed whilst opposing the grant of bail. This apart, I find that Accused No.2 has now been in judicial custody for more than ten months. Hence, looking at the facts and circumstances of the case, I am satisfied that Accused No. 2 is entitled to be enlarged on bail, subject to certain terms and conditions.

10. The Applicant-Accused No.2 shall be released on bail subject to the following conditions :

- (i) The Applicant shall furnish a personal bond of Rs.30,000/- with one surety in the like amount to the satisfaction of the Additional Sessions Judge, Mapusa, Goa.

(ii) The Applicant shall not interfere in any manner or threaten the witnesses/victims and/or commit any act which causes interference and hampers the trial.

(iii) The Applicant shall remain present before the Investigating Officer once in the last week of every month till the deposition of the victims is recorded and shall remain present before the Trial Court as and when required.

(iv) The Applicant shall give the address of his residence in Goa to the Investigating Officer which shall be verified by the Investigating Officer and a compliance report shall be given to the Trial Court prior to his release.

(v) The Applicant shall not leave the State of Goa without the prior written permission of the Trial Court and any change in address shall be intimated to the Investigating Officer as well as the Trial Court in writing with necessary proof.

(vi) The Applicant shall remain present before the Trial Court on all dates fixed for hearing after the filing of the charge sheet.

(vii) The Applicant shall cooperate with expeditious disposal of the trial and shall not commit similar or other offences.

(viii) The Applicant shall not try to establish communication with the co-accused or any other person involved directly or indirectly, through any mode of communication.

(ix) In case the Applicant violates any of these conditions, the prosecution shall be entitled to file an application before the Trial Court for cancellation of bail.

11. The Bail Application is allowed on the terms and conditions mentioned above and is accordingly disposed of.

12. This Order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

B. P. COLABAWALLA, J

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