

Maria S.

**IN THE HIGH COURT OF BOMBAY AT GOA**  
**CRIMINAL APPLICATION (BAIL) NO.17 OF 2022**

Cajetan Fernandes, presently ... Applicant  
lodged at judicial lock up Colvale.

***Versus***

State rep. by Office Incharge, ... Respondents  
Calangute Police Station And Anr.

Mr Pravin C. Naik with Ms Namrata Shirodkar, Advocates  
for the Applicant.

Mr Nikhil Vaze, Additional Public Prosecutor for the  
Respondents.

**CORAM: M. S. KARNIK, J.**

**DATED : 6<sup>th</sup> MARCH 2023**

**P. C.**

1. Heard learned counsel for the applicant.
2. This is an application for bail for offence punishable under Section 302 of Indian Penal Code. The date of the FIR is 08.03.2017 registered with the Calangute Police Station, North Goa. The applicant is in custody for almost 6 years. The trial has commenced and 3 witnesses are examined. The witnesses are pancha witnesses. There are in all 33 witnesses to be examined. Learned Public Prosecutor while opposing the application for bail submitted that there is adequate material against the applicant in the chargesheet to show his

complicity with the offence in question. It is submitted by him that there are eye-witnesses. Two of the eye-witnesses have expired. In any case according to him there are eye-witnesses whose statements have been recorded under Section 161 of Cr.P.C. and they have categorically stated that it is the applicant who is the author of the injuries.

3. I have gone through the version of the eye-witness dated 08.03.2017 who is the complainant. The incident happened on 08.03.2017 at around 01:00PM. The deceased was the conductor of business of the bar where the applicant was coming daily for taking drinks. It seems that in respect of an incident which had happened a couple of hours earlier, with which the applicant was not concerned, the applicant started teasing the deceased. Later on the deceased and the applicant started quarrelling and began abusing each other. The applicant took out a knife from his pocket and all of a sudden assaulted the conductor (deceased) of the bar. The deceased sustained stab injuries on his right hand, right wrist and back. Post mortem notes revealed that it is on account of injury no.1. which was on the right hand above the elbow that the death is caused. The cause mentioned is hemorrhage and shock, which was caused by sharp pointed cutting edge weapon and fatal in the course of the injury.

4. Learned Additional Public Prosecutor further submitted that in respect of the CCTC footage which has been sent to the Forensic Lab, preliminary report has been received indicating

that the data could not be retrieved. An attempt is being made to retrieve the data.

5. The accusations, though serious, the offence appears to have happened on the spur of the moment as there was no premeditation. Taking an overall view of the matter and considering that the applicant is in custody for more than 6 years with the trial likely to take a long time to conclude, the gravity of the offence alleged against the applicant will have to be balanced with the applicant's right to a speedy trial and since the question of his personal liberty is involved, the present application is allowed. There are no criminal antecedents reported against the applicant. The applicant requested for legal aid.

6. The applicant be released on bail on his furnishing PR bond in the sum of ₹25,000/- with one or more sureties of like amount to the satisfaction of the trial Court. The applicant shall report to Calangute Police Station once in a month on every first Saturday of the month between 11:00am and 1:00pm. The applicant to attend the trial regularly. The applicant shall not leave the State of Goa without the leave of the trial Court. The applicant shall not tamper with the evidence or influence the witnesses.

7. The application is disposed of.

**M. S. KARNIK, J.**