

Andreza

**IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO. 11 OF 2023 (F)**

Sadiq Bellary (Presently lodged in Central Jail, Colvale) through his next friend Peersab Bellary ... Applicant

Versus

State of Goa, Thr. Public Prosecutor, Maina Curtorim Police Station ...Respondent

Mr. Ryan Menezes, Advocate with Ms. Stephanie C. Alvares, Advocate for the Applicant.

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

CORAM: M. S. KARNIK, J
DATED: 19th JUNE 2023

ORAL ORDER

1. Heard learned Counsel for the applicant and the learned Additional Public Prosecutor for the respondent-State.
2. This is an application for bail. The offences alleged against the applicant are under section 302 read with section 34 of the Indian Penal Code (IPC) registered vide FIR No. 89/2020 of Maina Curtorim Police Station, South Goa.
3. The applicant is the accused no.2. The date of the incident is 28.05.2020. It is alleged that at about 23.00 hours, the accused who are two in number, were having a verbal heated argument with deceased Muzahid Khan and Javed Panwale. Pursuant to the

arguments, the present applicant (accused no.2) took out an iron rod and tried to assault Javed. Javed was successful in avoiding the blow and in turn snatched the iron rod from the accused no.2 and gave a blow to accused no. 2 with the said iron rod. The applicant was aggressive. The accused no.1 left the spot and came back with a knife and stabbed Muzahid with the knife as a result of which he succumbed to the injuries. The applicant was arrested on 28.05.2020 and he is in custody for more than two years. So far as the trial is concerned, it has not commenced. It is indicated that in all there are 47 witnesses are to be examined. Only eight witnesses have been examined so far. The trial in such circumstances is likely to take a long time to conclude.

4. Learned Public Prosecutor vehemently opposed the application for bail. He stated that there is one criminal antecedent reported against the applicant vide Cr. no. 77/2019 under sections 504, 341, 324, 323, 427, 506(ii) read with section 34 of IPC of the Maina Curtorim Police Station and which is pending trial before the learned JMFC, Margao, since the year 2019.

5. In my opinion, the fact that the applicant has an antecedent of the nature as stated, may not be sufficient to deprive the applicant of the facility of bail in the present application.

6. Taking an over all view of the matter and the fact that the stab injury is attributed to the accused no.1 and not the present applicant and the fact that the trial is likely to take a long time to conclude, with the applicant in pre-trial custody over a period of more than two years, the applicant can be released on bail considering his role.

7. The application for bail is allowed. Accordingly, the following order is passed :

ORDER

(i) The applicant is directed to be released on bail in respect of C.R. No. 89/2020 registered at the Maina Curtorim Police Station, upon furnishing a P.R. Bond of ₹25,000/- with one or two sureties in the like amount to the satisfaction of the learned trial Judge.

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

(iii) The applicant shall not tamper with the evidence nor influence, induce, threaten or coerce the prosecution witnesses and shall not make any attempt to contact or intimidate them.

(iv) The applicant shall report to the Maina Curtorim Police Station once a week on every Sunday between 10.00 a.m. and 11.00 a.m. till further orders of the trial Court.

(iv) The applicant shall not leave the State of Goa without prior permission of the learned trial Judge.

8. The Bail Application stands disposed of.

M. S. KARNIK, J

ANDREZA PEREIRA

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