

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO.13 OF 2023

Sandeep Gupta through his father
Ashok Gupta presently lodged in
judicial custody Central Jail.

... Applicant

Versus

State of Goa through Public
Prosecutor And Anr.

... Respondents

Mr Kautuk A. Raikar, Advocate with **Ms Aditi K. Salkar, Advocate for the Applicant.**

Mr Nikhil Vaze, Additional Government Advocate for the Respondents.

CORAM: M. S. KARNIK, J

DATED : 24th July 2023

ORAL ORDER:

1. Heard learned counsel for the applicant and learned Additional Public Prosecutor for the respondents.

2. This is an application for bail. The offence alleged against the applicant is under Section 302 and 394 of the Indian Penal Code registered vide Crime No.111/2022 at the Maina Curtorim Police Station. The FIR is dated 17.11.2022. It is alleged that on 13.11.2022 at around 23:00hrs, the applicant assaulted the deceased with a wooden danda on his head and other parts of the body. It is alleged that he further strangulated the victim and smashed his head with a laterite

stone. It is alleged that the applicant robbed cash, mobile phone and other belongings from the possession of the deceased. There is a statement of one of the witnesses that the applicant and the deceased on 13.11.2022 at around 11:00PM proceeded towards the canal side on their respective scooters. Later on, the witness who was playing a game on his mobile realised that it was the applicant who alone came back on the scooter that belonged to the victim.

3. The case rests on circumstantial evidence. The material against the applicant is in the nature of last seen in the company of the victim. Learned Additional Public Prosecutor submitted that the mobile phone which belonged to the victim was sold by the deceased. The allegations are that the deceased did not directly sell the mobile but from the chain from which the mobile passed hands, reveals that it is the deceased who had handed over the mobile to one of the persons.

4. There is no recovery at the instance of the applicant. The wooden danda and the stone which was allegedly used in the commission of the offence was found near the scene of offence. There are no criminal antecedents against the applicant. The date of the incident is alleged to be 13.11.2022. The missing complaint was filed by the father of the victim on 14.11.2022 and the dead body was found on 17.11.2022. The post-mortem report indicates that the death may have taken place between a period of 3-5 days prior to the date of the

post-mortem. The applicant was arrested on 18.11.2022. The charge-sheet has been filed. There are no criminal antecedents against the applicant. The applicant can be released on bail considering the overall circumstances. Hence, the following order:-

ORDER

(a) The Applicant shall be released on bail in connection with the Crime No.111/2022 registered at the Maina Curtorim Police Station, on furnishing PR bond of Rs.25,000/- with one or more sureties of the like amount to the satisfaction of the Trial Court.

(b) The applicant shall report to the Investigating Officer once a week on every Sunday between 10:00AM and 12:00noon.

(c) Except for attending the Investigating Officer and attending the trial, the applicant shall not enter Salcete Taluka till the conclusion of the trial.

(d) The applicant shall not leave the State of Goa without the prior permission of the trial Court.

(e) The applicant shall attend the trial regularly.

(f) The applicant shall not influence the witnesses or tamper with the evidence.

7. Needless to mention that observations are made for the limited purpose of consideration of this bail application. The trial Court to proceed with the trial on its own merits without being influenced by any of the observations.

5. The application is disposed of.

M. S. KARNIK, J.