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IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL REVISION APPLICATION NO.27 OF 2022

THE STATE OF GOA, THR. ANJUNA
POLICE STATION
Versus
VIDIT SIMEPURUSHKAR

... APPLICANT

... RESPONDENT

Mr. Pravin Faldessai, Additional Public Prosecutor for the Applicant.

Mr. Coburn Franco with Mr. Mark Valadares, Advocates for the Respondent.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 20th August, 2024

P.C.:

1. Heard Mr. Pravin Faldessai, learned Additional Public Prosecutor for State and Mr. Franco for Respondent.
2. Present revision could be disposed of since the issue involved is only with regard to the observations of the learned Trial Court while granting bail to the Respondent.
3. Mr. Faldessai while pointing out the observations of the learned Trial Court in the impugned Order would submit that the Court should refrain from passing such remarks or observations while deciding the

bail as it would certainly forming an opinion as to whether an offence mentioned in the FIR is made out or not.

4. Mr. Faldessai would submit that forming a prima facie opinion could be permissible while granting bail, but not the conclusion that the particular section of IPC is not applicable and no charge could be framed against him while granting bail.

5. Mr. Faldessai would submit that the revision is restricted only to certain observations of the learned Trial Court while granting bail, though initially entire bail order is challenged in the revision.

6. On perusal of the impugned order, it would clearly show that certain observations of the learned Trial Court are clearly unwarranted as far as applicability of framing of charge under a particular section of the IPC. The Court is certainly entitled to prima facie opine about its observations. However, such observations would not come in the way while framing of the charge.

7. In the impugned order, learned Trial Court has clearly formed an opinion that no case is made out against Respondent to charge him under Section 326 of IPC. Such observations are clearly unwarranted or could have been properly worded.

8. Learned Trial Court has also observed that since no documents

were produced including the Hurt Certificate, no case is made out under Section 326 of IPC. Such observations could be on prima facie to grant or refusal of bail.

9. Mr. Faldessai is right in pointing out that forming a prima facie opinion is not at all objected but, when Court gives a conclusive opinion about the applicability of the particular section, case of the prosecution could be affected on such observations while granting of bail, and also during trial.

10. Accordingly, the revision could be disposed of by deleting such observations in the impugned order. Learned Magistrate while granting bail should be more cautious about its observations and it should be restricted only for the purpose of grant or refusal of bail and that too on the prima facie ground.

11. The revision stands disposed of in above terms as it is now pointed out that the chargesheet is filed against Respondent under Section 324 of IPC and trial is in progress.

BHARAT P. DESHPANDE, J.