

2025:BHC-GOA:1532



IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO.55 OF 2025

Mr. Anil Tamburi,
S/o. Jamalappa Tamburi,
26 years of age, married,
R/o. Attikatti, Gadag,
Karnataka — 582103
and through his wife
Mrs. Anitha Tamboori,
R/O. Gadag, Karnataka; .. Applicant.
(Presently lodged in Judicial
Custody, Colvale Central Jail, Goa).

...Applicant

V/s.

1) State of Goa
Through the Police Inspector,
Colva Police Station,
Colva— Goa

2) State of Goa represented by,
The Public Prosecutor,
High Court of Bombay at Goa
Porvorim, Goa

...Respondents

Mr. Yash Naik, Advocates for the Applicant.

Mr. Somnath Karpe, Additional Public Prosecutor for Respondent Nos.1 and 2.

CORAM : VALMIKI MENEZES, J.
RESERVED ON : 18th AUGUST, 2025
PRONOUNCED ON : 19th AUGUST, 2025

ORDER:

1. This is an application for bail filed by the Applicant who is arrayed as Accused No.2 in the chargesheet No.71 of 2024 dated 06.12.2024, in which another four accused are also charged in Crime No. 79/2024, under Sections 329(3), 115(2), 303(2) r/w. 3(5) of the Bharatiya Nyaya Sanhita, 2023 (BNS, for short) based on a Complaint dated 17.08.2024 by one Nikhil Kale, lodged at the Colva Police Station.

2. It is the case of the Applicant that he was arrested on 24.09.2024 based on a false Complaint. The Applicant states that the alleged recovery of the shuttering plates and reinforcement steel is done and investigation pertaining to him is complete. It is further stated that Chargesheet has been filed and therefore no purpose will be served by keeping the Applicant in custody and incarcerating him any further.

3. According to the complaint filed by one Nikhil Kale, Supervisor of a construction company, five unknown persons came on the intervening night of 14.08.2024 and 15.08.2024 to one of its companies' construction site at the Bypass road at Seraulim, in two vehicles whose numbers are recorded in the complaint; the unknown assailants committed robbery of 10 shuttering plates and some reinforcement steel used in construction of the Western Bypass, by loading them in these vehicles. The complaint records that when the assailants were questioned by the Complainant, one of them assaulted the Supervisor Prakash and Mithilesh and then fled with

the material from the site which was valued approximately Rs.1,00,000/-. The FIR was lodged on 18.08.2024.

4. It is the case of the Prosecution that Accused No.1, 3, 4 and 5 were arrested in connection with another case of dacoity committed by them under Crime No.61 /2024 registered at Pernem Police Station, for a similar offence of committing dacoity of steel shutters, construction site on the national high way at Pernem. It is during the interrogation of these 4 accused that a disclosure was made that they were involved in the present crime and they committed the present dacoity along with the applicant i.e. Accused No.2, who at the relevant time was residing at Charao. It is further the case of the State that based on the phone records of Accused No.1 the phone number of the Applicant was traced and CDR records revealed that he had proceeded to Karnataka. Keeping track of the phone of the Applicant, the Applicant was arrested when he returned to his residence at Chorao. After his arrest, the prosecution claims that the recovery was effected in terms of Section 23 of the Bharatiya Sakshya Adhiniyam, 2023 and the shutters were recovered from a site at Mercedes.

5. The Applicant submits that the accused No.1- Mr. Salimsab Hanabarakadabi was granted bail by the Sessions Court vide order dated 15.10.2024 and claims release on the grounds of parity. The Applicant further submitted that the Sessions Court dismissed his bail Application on 15.10.2024 only on the sole ground that there was possibility of the Applicant jumping the bail as he had no documents to show his

permanent residential address. The Applicant thereafter filed a bail Application before this Court and same was withdrawn to file a fresh application before the Trial Court. The Applicant filed the bail Application before the Additional Sessions Judge at Margao and same was dismissed vide order dated 12.12.2024 on the same count of lack of documents to substantiate identity.

6. The Applicant in his present bail application stated that he is an Indian national and residing at the given address along with his mother, wife and children and therefore not likely to abscond. The Applicant further stated that he had applied for an Aadhaar card and in absence of his Aadhaar card he wished to submit the Aadhaar cards of his mother and his wife for the purpose of verification of his address in Gadag, Karnataka. The Applicant submits that he is willing to abide by any terms and conditions this Court may impose upon him and undertakes to furnish surety to the satisfaction of this Court.

7. During the hearing of this application, under orders of this Court the Applicant has filed an online application for Aadhar card through the Superintendent of Central jail Colvale, and has uploaded his application bearing acknowledgment number 2076/20232/00009, on 19.02.2025. In his application, he submitted his address to be, C/o Jumlappa Tamboori, Village Gadag, Dist. Gadag, State Karnataka Pin Code 582101. The application for issuing an Aadhaar card was rejected thrice for failure of verification. However, additional documents consisting of Electricity Bill,

Transfer Certificate of the Applicant from his school, Ration Card of the parents were submitted on 15.04.2025 to substantiate his correct place of abode in Karnataka. Thereafter, the Applicant has submitted on 18.06.2025 his Election Card along with the Aadhaar Card of his wife Anita and mother Shroja in which the address and place of residence of the wife and mother are the same as the one shown in the Election Card of the Applicant.

8. Shri S. Karpe, Learned Additional Public Prosecutor for the State submits that the offence committed by the Applicant is of serious nature and the modus operandi used is of targeting government projects, leading to loss of exchequers and that his presence is required as other accused persons are absconding. He further submits that the Applicant does not have permanent residence in Goa nor has he provided any identity proof or documentary evidence. According to the Learned Additional Public Prosecutor, the Aadhar enrolment of the Applicant was rejected due to failure in verification.

9. Chargesheet has been filed in the present matter on 06.12.2024. The trial is yet to commence, and in fact charge has not been framed till date. The Application has been in custody since 24.09.2024. The only reason given by the learned Sessions Court for rejecting the Applicant's bail on two occasions was that the Applicant had no proof of identity and documents to prove his place of abode. The Applicant originally hails from the State of Karnataka, where, according to the documents

produced, he is a permanent resident of Attikatti, Gadag, Karnataka, 582103. This does not appear to be in doubt because the documents of his mother and wife which have produced before me contains the same address.

10. The Applicant has been residing at Chorao village for about two years prior to the incident with his wife and minor children who go to school. After the incident, the wife of the Applicant had filed documents to state that she along with her children and mother of the Applicant had been residing at St. Cruz village, in North Goa from where the children attend School. Records to this effect have been produced, in the form of the Aadhar Cards of the owner of the residence which has been let out to the Applicant's wife. The Applicant's wife has also made a statement that the Tenant Verification Form has been submitted to the Police Station, as proof of their residence at the new address.

11. Thereafter the Applicant's wife has filed an Affidavit on 12.08.2025, placing on record the Aadhar cards of herself and of the Applicant/Accused along with a copy of the lease agreement to place on record the new address which is House No.21/280, situated at Bela Vista Colony, Donapaula, Tiswadi, North Goa, where she, along with the Applicant will be residing henceforth.

12. Accused No.1 was granted bail by the Sessions Court on 15.10.2024 in this crime, notwithstanding the fact that he was also involved in the similar crime on 12.08.2024 at Pernem Police Station.

There is no Hurt Certificate relied upon in the chargesheet of the witness who claimed they were assaulted nor is there a Test Identification Parade conducted to establish the identity of the Applicant during the incident. The weapon allegedly used by the assailants (iron rods) which is referred to by the witness has also not been recovered. The incident is alleged that taken place at the intervening night of 14.08.2024 and 15.08.2024 while the complaint has been made on 17.08.2024 without explaining the delay of three days in lodging the complaint.

13. For reasons stated above, the application of the Accused for bail is granted on the following conditions:

- (a) The Applicant shall be released on bail in Crime No. 79/2024 registered at Colva Police Station on executing a Bail Bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one local surety in the like amount, to be executed before Sessions Court South Goa Margao .
- (b) The Accused/Applicant shall furnish to the Investigating Officer a copy of his Aadhaar card, full residential address, email ID and his mobile phone number, which shall be kept functional and on at all times to enable the Investigating Officer to contact him; in addition the Applicant shall report to the Colva Police Station once in a month on a first Saturday between 11.00 am to 1.00 p.m commencing from 06.09.2025 till further orders.

- (c) The Applicant shall not interfere with any of the witnesses or attempt to contact them by himself or through any of his agents or tamper with the evidence.
- (d) The Applicant shall continue to reside at the address furnished by him, at Dona Paula, Tiswadi Goa and shall not change his place of residence without informing the court of the same. The Applicant shall not travel outside the State of Goa without permission of the Sessions Court South Goa Margao. In addition, the Applicant shall deposit any valid Passport in his possession with the Sessions Court South Goa Margao until disposal of the Sessions Case.
- (e) The Applicant shall attend the Trial Court on every date of hearing unless exempted by the Trial Court.
- (f) The Accused/Applicant shall present himself before the Colva Police Station as and when the Investigating Officer directs him to remain present for any investigation and for a period of one week from today shall report every day to the P.I. Colva Police Station between 10:00AM and 12:00PM
- (g) The application stands disposed of in the above terms.
- (h) All concerned to act on an authenticated copy of this order.

VALMIKI MENEZES, J.