



Sonam

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPL. (BAIL) NO.26 OF 2025

Mr. Reez Ibrahim Shaikh,
S/o Ibrabhim Shaikh,
Aged 30 years,
R/o H. No. C/1682, Sasmolem,
Baina, Vasco Da Gama,
South Goa-403802.
Presently residing at Lake Side Tower,
B1504, Production City,
Dubai-United Arab Emirates.

...Applicant

V/s.

1) State of Goa
(As rep. by the officers in Charge/Poice
Inspector
Vasco Police Station,
Vasco-Goa.

2) The Public Prosecutor,
Margao, Goa.

...Respondents

Mr. S. G. Desai, Senior Advocate with Mr. Tejas Rane and Ms. Misbah Shaikh, Advocates for the Applicant.

Mr. Shailendra Bhobe, Public Prosecutor for Respondent Nos.1 and 2.

CORAM : VALMIKI MENEZES, J.

RESERVED ON : 28TH MAY, 2025

PRONOUNCED ON: 16TH JUNE, 2025

ORDER:

1. This is an application for bail filed by the Applicant who is Accused No.4 in Crime No. 50/2021 registered on 16.07.2021 with the Vasco Da Gama Police Station for offences under Section 120-B, 302, and 307 of IPC. Subsequent to the investigation being completed in this case, a chargesheet came to be filed on 12.10.2021, which is pending before the Sessions Court at Margao (Sessions Case No. 10/2021).

2. It is the case of the prosecution that the Applicant, who is Accused No.4 hatched a conspiracy to eliminate the deceased Amar Naik, since the deceased was in a relationship with the sister of the Accused No.4 who opposed to the marriage of his sister with the deceased. It is the prosecution's case that with the motive of eliminating deceased Amar Naik, the Applicant hatched a plan and conspired with Accused No. 3, Ravishankar Yadav, to engage the services of Accused Nos. 1 and 2 to carry out his plan. It is further the case of the prosecution that Accused No.3 hired Accused Nos. 1 and 2 to carry out this plan, and to finance the execution through the alleged hired killers, Accused No. 4 transferred certain sums of money to the account of the Accused No. 3, who used this amount to procure the services of Accused Nos. 1 and 2. According to the prosecution, this conspiracy was hatched somewhere between 03.03.2021 and a few months thereafter when the Applicant was residing in Dubai, where he worked as a Diesel

Engine Mechanic.

3. It is further the prosecution's case that after Accused Nos. 1 and 2, who are otherwise permanent residents of Uttar Pradesh, but were at the relevant time residents of Panvel (Maharashtra), were hired by Accused No.3. They were brought to Goa by Accused No. 3 and were lodged at a Guest House in Anjuna belonging to the brother of Accused No. 3, one Alok Yadav; that pursuing the conspiracy, Accused Nos. 1 and 2 at the behest of Accused Nos. 3 and 4, posing as potential customers for buying real estate in Goa, got in touch with the deceased, with whom they fixed a meeting to check plots of land at Bogmalo, Vasco Da Gama, a week prior to the incident. That on 15.07.2021, at around 03:00 pm, Accused Nos. 1 and 2 met the deceased in the presence of one Pritesh Ghadi at a site of some plots at Bogmalo, where Accused No.1 shot the said Amar in the head with a firearm procured and supplied to him by the Accused No.3 resulting in his death. The witness Pritesh wrestled the firearm from the hand of the Accused No.1 and then escaped from the site and hid himself. After the police were notified by Pritesh, the injured Amar was shifted to Sub District Hospital, Chicalim, where he was declared dead.

4. It is further the prosecution's case that the Accused Nos. 1 and 2, who had hired a car and come to the site of the incident, were arrested on 16.07.2021. Two firearms was recovered at their behest under the Recovery Panchanama, after which Accused No.

3 was arrested on 17.07.2021. It is the prosecution's case that from a phone recovered from the Accused No.3, whose data was analysed, several voice recordings were retrieved of a conversation between the Accused No. 3 and the Accused No. 4/Applicant. According to the prosecution, the phone number against which the voice recordings were retrieved was '009715525905', which was discovered from the statement recorded of a witness, one Akshay Kinlekar. The case of the prosecution is that this witness had disclosed that the Applicant had called him from the aforementioned phone number on 03.03.2021, just prior to the incident, to have a conversation about the relationship of the deceased Amar Naik with the sister of the Applicant.

5. Whilst opposing this application, the Investigating Officer has filed a reply, setting out the following grounds for denying bail to the Accused:

- i. That it is required for the Applicant to undergo a Voice Sampling Test, which necessitates that the custody of the Accused be granted to the Investigating Authorities, an application for which had been pending before the Sessions Court.
- ii. The fact that the Applicant overstayed in Dubai for a period of 187 days after the expiry of his passport on 15.01.2023 and his VISA on 29.12.2023, despite being

aware of the criminal case registered against him in Goa, shows the Applicant's intent to evade trial.

- iii. That granting custody of the Applicant would enable further investigation and the collection of additional evidence. If bail is granted, such an investigation would likely be hampered due to the reasonable apprehension that the Applicant may threaten witnesses, thereby jeopardizing the prosecution's case and adversely affecting the fairness of the trial.

6. In contrast, the Applicant, in his application for bail, contends that he was never an absconder. Accused No. 4 claims that although he was initially unaware of the case filed against him, he became aware of its pendency when, after his passport expired on 15.01.2023, he approached the Indian Embassy in Dubai for its renewal on 01.04.2023. Accused No. 4 claims that it was only while tracking the status of his passport renewal online on 03.04.2023, that he came to know an F.I.R. had been registered against him at the Vasco Da Gama Police Station. Consequently, he was informed that he would require clearance from the Vasco Police Station to proceed with the renewal.

7. The Applicant further states that his VISA and Emirates ID expired on 29.12.2023, rendering him unable to travel to Goa due to the non-renewal of his passport. Upon seeking legal advice, he filed an application for anticipatory bail before the Sessions Court,

Margao. However, the same was rejected by an order dated 07.10.2024, on the grounds that the Accused had evaded investigation and could not claim parity for bail, having deliberately failed to make himself available for investigation.

8. Subsequently, the Applicant states to have obtained an Outpass (a temporary travel document allowing individuals without a valid passport or VISA to exit the UAE legally) from the Dubai Government on 17.10.2024 under the UAE Visa Amnesty Programme, enabling his return to Goa.

9. Following his arrest at the Mopa Airport, Goa on 27.10.2024, Accused No. 4 filed an application for bail before the Sessions Court, Margao. However, the same was rejected by the impugned order dated 21.02.2025, on the grounds of his continued unavailability for investigation/interrogation, even after the rejection of his anticipatory bail, noting that he could not be granted bail on the ground of parity under such circumstances.

10. It is a matter of record that in the proceedings against Accused Nos. 1, 2, and 3 in Sessions Case No. 10/2021, a chargesheet was filed on 12.10.2021 naming Accused Nos. 1 to 4, with Accused No. 4 described therein as an absconder. Charge was framed against Accused Nos. 1, 2 and 3 on 07.11.2022. After framing of charge the trial commenced with the examination of the first witness on 22.02.2023.

11. By an order of this Court dated 07.08.2023, Accused No. 3, Ravishankar, was granted bail on the grounds that there was no evidence to establish that the amount credited to the account of Accused No. 3 by Accused No. 4 was handed over to Accused Nos. 1 and 2, and that Accused No. 3 did not play a vital role in the commission of the crime.

12. Summons were issued to the Applicant by the Sessions Court at the residence of the Applicant at Vasco Da Gama on 17.01.2024, which was refused by his mother, stating that he was residing in Dubai.

13. While the present application was pending before this Court, the Vasco Police Station, vide application dated 17.12.2024, sought permission from the Sessions Court to conduct further investigation under Section 173(8) of the Code of Criminal Procedure, 1973, and to collect a voice sample of Accused No. 4. By an order dated 05.03.2025, this Court recorded that the Applicant had voluntarily consented to undergo the voice sampling test. Accordingly, the Superintendent of Central Jail, Colvale, was directed to hand over the custody of Accused No. 4 to the concerned Police Inspector at 09:00 am on 10.03.2025 for him to be escorted to GSFL, Verna, for the voice sampling test, and to ensure his return to Colvale Jail by 06:00 pm the same day.

14. In compliance with the Court's order, the voice sample of Accused No. 4 was recorded on 10.04.2025 which was

subsequently forwarded to the Central Forensic Laboratory, Chandigarh, for comparison.

15. Shri Surendra Desai, learned Senior Advocated representing Accused No. 4 has advanced the following submissions:

(a) He submits that the Accused No. 3 was granted bail by this Court on 07.08.2023, after the trial commenced. This Court order, granting bail to Accused No.3, has observed in paragraph No.6 thereof that there is no cogent evidence to establish that the amount which was credited into the bank account of the Accused No.3 at the instance of Accused No. 4 was handed over to the Accused Nos. 1 and 2. It was further submitted that it was not the case of the prosecution that apart from the overt act attributed to Accused No. 3 of hiring the assailants, Accused No. 3 has played any vital role in the commission of crime of firing at the deceased. It was also submitted that one of the grounds for the release of Accused No. 3 was that he was in custody for a period of three years and the end of trial was nowhere in sight. He therefore contends that the Applicant having been charged as a co-conspirator with Accused No. 3, and Section 120-B IPC having been incorporated against them, on the basis of parity, the present Applicant would be also entitled to be released on bail.

(b) It was further submitted that the police, during the entire

investigation, had neither called the Applicant, knowing his number, nor had sent any notice under Section 41A, Cr.P.C., requesting the Applicant to join in the investigation. He further submits that even the Sessions Court had not issued summons to the Applicant until 17.01.2024, when the Applicant was in Dubai. No warrant ever having been issued by the Sessions Court against the Applicant, nor any proclamation under Section 82 of the Code having been issued, the Applicant could never be referred to as an absconder. There was no cause for the Sessions Court to reject bail on an observation that the Applicant was an absconder.

(c) It is further submitted that the Applicant is willing to abide by all conditions of bail imposed by this Court. The Applicant has submitted that no charge has been framed as of date against him and if charge was framed, the trial would be required to commence *de novo* with examination of all witnesses afresh; the Applicant having been in custody since 27.10.2024, and the trial not being likely to conclude in the near future, the Applicant will be entitled to be released on bail.

(d) Learned Senior Counsel relied on the following precedents to support his arguments:

- i. ***Suraj Vijay Agarwal v. The State of Maharashtra***, SLP (Crl.) No. 8432/2023, Supreme Court of India.

- ii. *Arnesh Kumar v. State of Bihar*, AIR 2014 SC 2756.
- iii. *Satender Kumar Antil v. Central Bureau of Investigation & Ors.*, AIR 2022 SC 3386.
- iv. *Sanjay Chandra v. CBI*, AIR 2012 SC 830.

16. The learned Public Prosecutor, in reply, has advanced the following submissions:

(a) The learned Public Prosecutor has taken me through the reply filed by the Investigating Officer (IO), wherein the details of the investigation conducted are set out. It was submitted that the voice notes between Ravishankar/Accused No. 3 and the Applicant (Reez) were examined by the Forensic Experts, and the conversation between them was clearly about hatching a plan to eliminate deceased Amar. Reference was made to the voice notes from the phone, which were transferred by the Forensic Expert by creating a clone thereof and storing the same on a Pendrive; the conversation between the Accused No. 3 and the other voice through the phone number belonging to the Applicant, refers to the name of the Applicant “Reez” and the Accused No. 3 “Ravi”, clearly establishing the identity of the speakers.

(b) The learned Public Prosecutor further submits that Accused Nos. 1 and 2 were identified by eye witnesses in

Test Identification Parade and a car used by Accused Nos. 1 and 2 to escape from the scene of offence was also attached. It was submitted that after details were obtained of the Applicant's Passport and dates of travel to India, from the Immigration Authorities, a Look Out Circular (LOC) was issued through the Superintendent of Police, South Goa to all Immigration Check Posts in India to facilitate the arrest of the Applicant, who was at that time in Dubai. A Chargesheet was filed on 12.10.2021 before the Judicial Magistrate First Class at Vasco Da Gama, which proceedings were committed to the Sessions Court, and the matter was pending trial after being registered as Sessions Case No. 10/2021.

(c) It was further submission of learned Public Prosecutor that the Applicant was through out aware of the pendency of investigation and thereafter, that he was an Accused in the case, from 15.07.2021, right until 03.04.2023(almost two years), when the Applicant claimed that it first came to his knowledge that he was the Accused in the case. It was further pointed out that the Chargesheet was filed on 12.10.2021 including against the Applicant and summons had been issued to the Applicant at his residence in Vasco on 30.01.2024, which was refused by his mother, who stated that the Applicant was in Dubai. Reference was made to statement at paragraph 3 of Affidavit dated 29.03.2025 filed by the Applicant before this Court, wherein the Applicant

immitted that on 15.07.2021, his friend from Vasco Da Gama one Satish Naik messaged him that Amar was shot and that the Applicant was part of the Chargsheet filed against him in respect of the incident. It was further submitted that even after being informed by the Embassy on 01.04.2023 that there was a case pending against him. The Appicant did not return to India and instead continued in Dubai until his Visa expired on 29.12.2023; even then he did not return to India and continued in Dubai as an illegal immigrant. The anticipatory bail application was filed by the Applicant only on 03.09.2024, whilst he was in Dubai, which was rejected on 07.10.2024, and it is only when no other option was left with him that he returned to Goa on 27.10.2024 and was arrested at the Mopa Airport. It is the contention for the State that this conduct not only points to the guilt of the Applicant, but raises a serious apprehension that the Applicant might flee and avoid standing trial. It is also submitted that the Applicant, who is from Vasco city, from where all witnesses hail, would likely result in them being threatened.

(d) The learned Public Prosecutor has taken me through the bank statement of the savings account held in the name of Accused No. 3/Ravishankar annexed with the Chargesheet, reveals several transactions between Accused No. 3 and Accused No. 4. As it appears, Accused No. 4 had transferred Rs, 40,010/-, Rs. 2,00,000/-, Rs. 50,000/-, 1,50,000/- and Rs.

29,941/- on 04.03.2021, 15.03.2021, 12.04.2021, 21.05.2021 and 15.07.2021 respectively, to the account of Accused No. 3, with the last transaction made on the very day the crime was committed. It is further submitted noted that the first transaction of Rs.40,010/- dated 04.03.2021 has not been disclosed in the present application for bail or in the affidavit filed by Accused No. 4.

(e) The learned Public Prosecutor submitted that the offence committed is a calculated one, well planned by the Accused Nos. 3 and 4 and that the deceased Amar was killed in cold blood by using a weapon procured by Accused No. 3. He further submits that from all the material annexed to the Chargesheet, the entire chain of events, right from the conspiracy hatched by Accused Nos. 3 and 4 to eliminate the said Amar through their phone conversation, to getting Accused Nos. 1 and 2 hired to execute their plan, procuring firearms for the purpose, arranging for Accused Nos. 1 and 2 to travel to Goa, lodged them at the Guest House of the brother of the Accused No.3 and to provide them with the transport and making contact with the deceased Amar for a suposive land deed, to a clear intention of committing a premeditated act of murder. It was submitted that the material in the Chargesheet would be otherwise sufficient to convict the Applicant of the offence.

(f) The learned Public Prosecutor relied on the following

caselaw to support his arguments:

- i. ***Tarun Kumar v. Assistant Director, ED***, 2023 SCC OnLine SC 1486.
- ii. ***Mahadev Meena v. Praveen Rathore & Anr.***, (2021) 17 SCC 788.
- iii. ***The State of Rajasthan v. Indraj Singh, etc.***, Crl.A. No. 001242 - 001243 / 2025 Arising out of SLP(Crl) No. 016156 - 016157 / 2024, Supreme Court of India.

17. It has long been recognized that an Accused is presumed innocent in the eyes of the law until proven guilty. As such, subjecting a person who is presumed innocent to detention carries grave consequences. At the stage of considering bail, the evidence brought on record need not establish the guilt of the Accused beyond a reasonable doubt. However, the Court must be satisfied that a genuine case exists against the Accused, based on the prima facie evidence presented by the prosecution in support of the charges. It is well established that, while granting bail, the Court must exercise its jurisdiction with due regard to the specific circumstances of each case. In doing so, the Court should consider, among other circumstances, the following factors:

- i. Whether there exists a prima facie ground for the Court to reasonably believe that the Accused has committed the offence;

- ii. The nature of the accusations and the gravity of the charges;
- iii. The severity of the punishment that may be imposed upon conviction.
- iv. The criminal antecedents of the Accused, if any;
- v. The reasonable possibility of the Accused absconding or fleeing if released on bail; and
- vi. The reasonable apprehension that the witnesses may be tampered with.

The aforementioned principles governing the grant of bail are culled out by the Supreme Court in a plethora of judgments and are re-iterated in *Sanjay Chandra* (supra) and *Satender Kumar Antil* (supra).

The role of the Accused in the alleged commission of the crime is central to determining whether bail can be granted by applying the principle of parity, along with the seriousness and gravity of charge/offence, as observed by the Supreme Court in *Mahadev Meena* (supra).

18. From the material on record, the main allegation is that the Applicant has transferred certain sums of money between 04.03.2021 to 15.07.2021 to the Accused No. 3 to enable Accused No.3 to engage the services of the hitmen in the case i.e. Accused Nos. 1 and 2. Though the money trail between Accused No. 1 and

2 may have been prima facie established, as noted by this Court in Judgment dated 07.08.2023, granting bail to Accused No. 3, there appears to be no direct material on record to establish the use of this money to pay Accused Nos. 1 and 2, to engage the services in committing the crime. So also, whilst there are voice recordings, which have been analysed, and claimed to be the conversation between Accused Nos. 3 and 4, and though there are references in this voice recordings to the names of these Accused i.e. “Reez” and “Ravi”, these are yet to be established by a report of the voice analysers with respect to the present Applicant; the report of such analysis is yet to be procured. Thus, subject to the Rules of proof of Electronic Evidence in the form of voice recordings, which would require a trial, at this stage, one ought not to draw inferences on the conspiracy allegedly hatched by Accused Nos. 3 and 4.

19. The offence is no doubt heinous in nature and there may be some evidence including identity of Accused No. 1 and 2 being established through witnesses, who have identified them in a Test Identification Parade, but the conspiracy between Accused Nos. 1 and 2 who have allegedly carried out the killing, and Accused Nos. 3 and 4 will require to be established in a trial.

20. Given the fact that the Accused No. 3 was enlarged on bail on 07.08.2023, even before summons were issued by the Trial Court to the Applicant, that too after charge was framed against him, would, in my opinion place the Applicant on a slightly better footing. The Charge has till date not been framed against the

Applicant, though two witnesses have been examined. This was done without taking recourse to Section 82 Cr. P.C., as no warrant was issued to the Applicant after attempts to serve him with the summons and securing his presence failed; there is no standing warrant issued against him, nor any proclamation declaring him to be a person absconding issued by the Sessions Court. Though, there is reference to the Accused in the Chargesheet, treating him as an absconder, he could not be considered as one, for want of any orders or declaration being passed in terms of Section 82 of Cr. P.C.

The conduct of the Applicant of avoiding summons or avoiding to travel to India, knowing full well that there was a serious offence of which he was Accused, might have been a circumstance to be considered before admitting him to bail. However, considering that his arrest on 27.10.2024 on arrival at Mopa Airport from Dubai, was much after Charge had been framed against Accused No. 3 and trial had commenced without a proclamation against the Applicant, this would not be a circumstance which would weigh against the Applicant for grant of bail.

21. Since the trial has commenced in the absence of the Applicant, against whom Charge is yet to be framed, this might entail a further delay in deciding whether Charge should be framed against the Applicant, and if such Charge is framed, the trial may have to commence *de novo*. There would be further delay in

commencing the trial, and this circumstance would also have to be borne in mind, to balance the rights of the Applicant as against the need to keep him in custody.

There is no material on record to demonstrate that the Applicant had a past criminal record or dubious antecedent which disentitle him to bail. No doubt, the witnesses are to a large extent from the same area where the Applicant resides, but that by itself would not preclude this Court to set him at liberty, in the absence of any material being shown to the Court that there is likelihood of the Applicant interfering with the witnesses or tampering with the evidence; so also, sufficient curbs can be placed by this Court in the terms of bail to restrict the movement of the Applicant, to ensure that he appears before the Sessions Court and stands trial and does not jump bail. From the material on record, the Applicant is stated to have an Indian Passport which expired on 15.01.2023. Though there is no material placed before me to evidence the possession of a renewed Passport or a fresh Passport being issued to the Applicant, the Applicant can be directed to surrender such Passport if issued to him, to ensure that he does not flee from justice.

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

- (a) The Accused No. 4/Applicant shall be released on bail in Crime No. 50/2021 registered at Vasco Police Station on

executing a Bail Bond of Rs. 1,00,000/- (Rupees One Lakh only) with one surety in the like amount, to be executed before the Sessions Court, South Goa at 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 Vasco Police Station once in a month on a first Saturday between 11.00 am to 1.00 p.m commencing 28th June, 2025 till further orders.

(c) The Accused/Applicant shall not interfere with any of the witnesses or attempt to contact them by himself or through any of his or tamper with the evidence.

(d) The Accused/Applicant shall continue to reside at the address furnished by him, at Vasco Da Gama and shall not change his place of residence without informing the Sessions Court at Margao of the same. The Applicant shall not travel outside the State of Goa without permission of the Sessions Court. In addition, the Applicant shall deposit any valid Passport in his possession with the Sessions Court until the disposal of the Sessions Case.

(e) The Applicant shall attend the Trial Court on every date of hearing unless exempted by the Trial Court.

23. The application stands disposed of in the above terms.
24. All concerned to act on an authenticated copy of this order.

VALMIKI MENEZES, J.