



**Sonam**

**IN THE HIGH COURT OF BOMBAY AT GOA**

**CRIMINAL APPLICATION (BAIL) NO.34 OF 2025**

Mr. Darshan Bhisaji,  
Son of Mr. Rama Bhisaji,  
Aged 32 years, Indian National,  
R/o Naigin Wada, Parsem, Pernem, Goa.  
(Presently lodged in Judicial Custody at  
Central Jail Colvale).

**...Applicant**

**V/s.**

1. State Of Goa,  
Through The Public Prosecutor  
High Court of Bombay at Goa.

2. The Police Inspector,  
Mandrem Police Station, Goa.

**...Respondents**

*Mr. Pavithran A. V. with Ms. S. Shaikh, Advocates for the Applicant.*

*Mr. Pravin Faldessai, Additional Public Prosecutor for Respondent Nos. 1 and 2.*

**CORAM : VALMIKI MENEZES, J.**

**RESERVED ON : 17<sup>th</sup> JUNE, 2025.**

**PRONOUNCED ON: 26<sup>th</sup> JUNE, 2025.**

**ORDER:**

1. Registry to waive objections and register the matter.

2. This is an application for bail filed by the Applicant who is arrayed as sole Accused in the crime No.27/2024 dated 21.05.2024, charged under Section 307 of the Indian Penal Code based on a Complaint dated 21.05.2024 by the mother of the victim, Namita Bhisaji, lodged at the Mandrem Police Station.

3. According to the Complaint dated 21.05.2024, the Complainant Namita, on 20.05.2024, at 21.00 hours, heard a loud noise which sounded like two people fighting, and after going outside she saw that her son, Gauresh was lying on the main road. The applicant assaulted the son of the complainant with a metal rod on his head, kicked him on his body, causing bleeding injuries. She further stated that her son, Gauresh, was lying in a pool of blood in an unconscious condition and alleged that the Applicant assaulted her son with the intention to cause his death. Subsequently, on 21.05.2024, an FIR was registered at 3.15 pm at the Mandrem Police Station, leading to arrest of the Applicant on the same day. A Chargesheet was filed on 16.08.2024 and was registered as Sessions Case No. 51/2024, which is being tried by the Sessions Judge at Mapusa.

4. It is the case of the Applicant that he has been arrested on 21.05.2024 pursuant to a Complaint dated 21.05.2024 filed by one Namita Bhisaji. The Applicant further submitted that the

Chargesheet has already been filed and the presence of the Applicant for the purpose of investigation is no longer necessary and that the Chargesheet demonstrates that there is no credible material to support the case of the prosecution. The weapon allegedly used in the assault has already been recovered. The Applicant submits that the Complaint and the entire criminal proceeding lodged against the Applicant is frivolous and that he is innocent and has not committed any of the offences as alleged in the FIR or any other offence whatsoever.

5. The Applicant was arrested on 21.05.2024 and has been in custody since then. The Applicant's first bail was rejected by the Sessions Court, Panaji, on 14.06.2024 since the investigation was not complete. Chargesheet was filed on 16.08.2024, and Sessions Case No.51/2024 is registered and is pending trial before the Additional Sessions Judge, North Goa at Mapusa. Second Bail Application before the Sessions Court was dismissed vide its Order dated 05.09.2024 on the ground that there was no change of circumstance. Thereafter, a bail application was filed before this Court and vide order dated 12.02.2025, the said bail application was dismissed as withdrawn with liberty to file a fresh application before the Sessions Court. The Sessions Court vide its order dated 28.02.2025, rejected the bail application of the Applicant,

largely on the ground that there was no change in circumstances warranting the grant of bail.

6. The application has been opposed by the State contending that as a result of the head injury sustained by the victim, he is unable to speak; consequent upon loss of speech, he is unable to depose in the matter. The victim has undergone several critical surgeries at GMC Bambolim, wherein the Medical Officer has opined that the victim is unable to speak as he is diagnosed with a case of 'Aphasia' i.e. a condition that has been developed as a consequence of severe head injury, and thus his statement has not been recorded till date due to his inability to speak.

7. The prosecution further submits that if the accused person is released on bail, there is every possibility that the accused person may threaten or further assault the victim/ complainant/ in retaliation for the present FIR registered against him. That the Accused has criminal antecedents as he is also involved in Pernem P.S. Cr. No.121/2022 u/s 323, 324, 504, 506(ii) IPC, which is presently under trial. The prosecution also submitted that the victim and the Accused person are residing in the same locality and as such, if the accused person is released on bail, there is every possibility that the applicant may commit furthermore offence against the complainant/victim. It is

submitted that the presence of the Accused/ Applicant is required in custody in order to ensure that they do not threaten the witnesses related to the said crime.

8. The Learned Advocate for the Applicant, Mr. Pavithran A.V submits that the Applicant is in custody since 21.05.2024, investigation is complete and Chargesheet has been filed and the trial has begun; evidence of 4 witnesses (PW1-Namita Bhisaji, the complainant, PW2-Sainath Gadekar, PW3-Viraj Bhisaji, PW4-Ketan Bhisaji ) has been recorded and placed the same before me. The victim, who is the prime eyewitness, is not listed as a witness in the Chargesheet, claiming his speech is impaired. Since recording of the statement of the victim is impossible for the time being, the accused cannot be detained indefinitely till the victim is in a position to give his statement. Learned Advocate for the Applicant relied on the Judgment of this Court in *Manthan Gawade V/s State of Goa, 2024 SCC OnLine Bom 3334* in support of his arguments.

9. Opposing the submissions, Mr. Pravin Faldessai, learned Additional Public Prosecutor, submitted that if the accused is released on bail, there is every possibility that the accused person may threaten the victim whose statement is yet to be recorded, as it is crucial evidence in the said case. That the complainant as well as the victim, and the accused person are

residing in the same locality and as such, if the accused person is released on bail, there is every possibility that the accused may commit further more offence against the complainant/victim.

10. The statements of eye witness has already been recorded by the Trial Court. The main witness is the complainant, mother of the victim of assault whilst the other witnesses are pancha witness and a witness who was present when the victim was taken to the hospital. The victim, for reasons best known to the prosecution has not been listed as a witness in the Chargesheet, nor has he been cited as a witness before the Sessions Court. It appears therefore that the prosecution has no intention to examine the victim of the alleged offence, Gauresh, as a witness before the Trial Court. Considering these facts, if the Applicant was released on bail, the likelihood of any witness being threatened is remote, since the main witnesses have already been examined. Necessary conditions can be imposed on the movement of the Applicant to restrain from interfering with further witnesses or threatening them or in any manner interfering with the process of the trial.

11. It is not in dispute that the Applicant has one antecedent of a case of assault against him, which is pending trial. Other than this case, there is no material brought on record to

demonstrate that the Applicant would be at flight risk or that he would not attend the trial in the present case, which may take some time to complete. The Applicant has been in custody since 21.05.2024 for over a year.

12. 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.27/2024 registered at Mandrem Police Station on executing a Bail Bond of Rs. 25,000/- with one surety in the like amount, to be executed before the Sessions Court at Mapusa.

(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 Mandrem Police Station once in a month on a first Monday between 11.00 am to 1.00 p.m till disposal of Sessions Case No. 51/2024.

(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 not travel outside the State of Goa without permission of the Sessions Court at Mapusa. In addition, the Applicant shall deposit any valid Passport in his possession with the Sessions Court at Mapusa 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 Applicant shall not enter the village of Parsem, Pernem, until the disposal of Sessions Case No. 51/2024.

13. The application stands disposed of.

14. All concerned to act on an authenticated copy of this order.

**VALMIKI MENEZES, J.**