



Aeena

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO.46 OF 2025.

Mr. Tanay Subray Candolkar
s/o Mr. Subray Candolkar
29 years of age, Business,
RIO H.No. 524, Vaddy, Candolim,
North Goa, Goa- 403515
Presently in judicial custody
At Central jail, Colvale, Goa.
(Through his Sister Ms Purnima Subray
Candolkar, Age 30 years,
Since the Applicant is in Judicial
Custody, Central Jail, Colvale) Applicant

Versus

1. State
Through Porvorim Police Station,
Porvorim, Goa.
2. Public Prosecutor,
District Court, Panaji Goa. ... Respondents

Mr. Raviraj Chodankar, Advocate for the Applicant.

Mr. Pravin Faldessai, Additional Public Prosecutor for the Respondents
No.1 and 2.

CORAM:- VALMIKI MENEZES, J.

DATED :- 5th August, 2025

P. C.:

1. The Registry to waive objections and register the matter.

2. This is an application for bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). The applicant/accused no.2 in FIR /Crime bearing No.47/2024 registered on 16.04.2024 at the Porvorim Police Station. The Applicant was arrested on 17.04.2024. The main ground on which this application is filed is on a claim of parity that Accused No.6 was granted bail by this Court on 02.05.2025. The applicant claims that he has practically no role to play in the commission of the crime, and he stands on the same footing as Accused No.6 who has been released on bail.

3. It is the prosecution's case that after the FIR was registered, 12 individuals who are accused in a case are being arrested on different dates. After completion of investigation a chargesheet bearing No.61/2024 was filed on 12.07.2024, against these accused, including applicant herein, for offences punishable under Sections 143, 147, 342, 365, 392, 201, and 302 read with Section 149 of the Indian Penal Code, 1860. The case is pending before the Sessions Court at Panaji and has been now listed for hearing the Accused before framing of charge. The case bears Sessions Case No.8/2024.

4. From the reading of the chargesheet, it is the case of the prosecution that at approximately 02:00 hours, on 16.04.2024, while LPSI Lauren Sequeira was on patrolling duty, she received an intimation from the another patrolling vehicle, reporting that an unidentified male person was found lying in an unconscious state in the vicinity of Audit Bhavan, Savlem, Pilerne. The said individual was thereafter transported

to the District Hospital, Mapusa, by ambulance and at around 04:02 hours on the night of 16.04.2024, the individual was declared brought dead by the Medical Officer on duty and a case of unnatural death was registered. After enquiry was conducted by the Investigating Officer the body of the deceased was identified, complaint came to be lodged by the brother of the deceased against unknown persons; on further investigation, according to the prosecution 12 accused persons, including the applicant i.e. accused no.2 was arrested. The post mortem report conducted on the deceased reveals injuries on the legs, back, hands and chest of the deceased, wounds were found on both his palms. The post mortem report also noticed fractures on the left side sixth and seventh ribs and fractures with separation of the C1-C2 cervical vertebrae of the neck and the cause of death is opined by the Medical Officer was due to crushing damage of the spinal cord as a result of fracture dislocation of the C1-C2 cervical vertebrae consequent to rotational torsion of the head, which is necessarily fatal in a person.

5. During the investigation, statements of a witness Megha came to be recorded, alleging that the deceased made advances towards her which she refuted stating she had a boyfriend; later on the night of 15.04.2024 she had seen, a big built male person with a beard having dark complexion running after the deceased near a park on Chogam Road. She had also stated that along with this person another male person was also seen, , who snatched the phone from the deceased forcibly, and after overpowering him the said two persons were joined by accused no.5 (Suman) and the accused No.6 (Sachin). This witness further states that

she saw four boys namely Anand, Santosh, Bidesh and Nilesh, who reside in Mapusa and she got scared seeing so many boys rushing towards the deceased Rehbar, she left from the spot and went back home.

6. After arrest of the 12 accused, Megha has, in Test Identification Parade held on 14.06.2024, almost two months after the Accused were arrested identified Accused Nos.2 (Applicant), 3, 5 and (by name). A statement of another witness, one Ritik Naik was recorded on 18.04.2024 records that he knows the present applicant and Accused No.3 Khatesh, and that on the night of 15.04.2024 at around 22.15 hrs. he had gone with Sandesh (accused no.11) to Pilerne, when he received a call from the present Applicant who called them to a place near Ganesh Temple at Candolim where other accused i.e. Tanay and Sandesh (accused no.11) were waiting on scooters. They followed the Accused on scooter and reached at open field at Guirim/Mapusa where they noticed a black colour Hyundai Creta car and some two wheelers in the field, where accused no.1 (Vikas) got down from the car and pulled out one male person from the car and started assaulting him. After which Khatesh (accused no.3) assaulted that person. This witness further stated that accused no.1 and accused no.3 continuously assaulted that person when the witness left from the spot with Sandesh (accused no.11). It was further recorded in witness statement that later on he was told by Sandesh (accused no.11) that the person who was being assaulted was Rehbar Khan.

7. During the pendency of the said criminal proceedings before the Sessions Court, accused Nos.4, 7, and 8 have been granted bail on 23.09.2024 whilst Accused No. 9 was granted bail on 08.08.2024, and accused Nos. 10 and 11 were granted bail on 18.09.2024. Accused No. 1, who is alleged to be the principal accused, continues to be in judicial custody. On reading of the statement of witnesses Megha and Ritik, other than identifying the present Accused/Applicant running after the Rehbar Khan at Porvorim, and identifying the Applicant in the T.I. Parade, prima facie, there does not appear any direct material to implicate the applicant as one of the persons assaulted the deceased Rehbar Khan in the paddy field of Girim. Though there may be some references made to establish the presence of the Accused at the time of the assault took place, the role of this Accused/Applicant in the assault on Rehbar Khan would have to be established through evidence at the trial. The Accused No.6, has been released on bail on similar grounds, where there is direct involvement in the assault has not been prima facie established.

8. There is no doubt that the offence of which the Applicant is charged along with the 11 other persons is a heinous offence, and the injuries on the body of the deceased clearly suggest that the death of the deceased was directly connected to the assault referred to by one of the witnesses, the role of the applicant would nevertheless have to be established at the trial.

9. The applicant has been in custody since 17.04.2024. He is an underage, being aged 30 years, the reply of the Investigating Officer does not suggest that the Applicant has any criminal antecedents or record or that he has been involved in any other offence. Prior to the present application, the Applicant had applied for being released on three occasions for attending the delivery of his wife and thereafter for attending the cremation ceremony of his mother and for attending rituals connected with his mother's demise. There is no adverse report of the Investigating Authorities of any incident at the behest of the Applicant during his release on those three occasions.

10. From the record, it is noted that the Applicant is a permanent resident of Candolim, Bardez, Goa. He is married and has a child who resides at this residence along with his sister. The reply of the Investigating Officer also does not suggest that there is no serious risk if the Applicant is released on bail.

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

- (i) The Applicant has furnished a cash surety of Rs. 50,000/- by receipt No. 017436 dated 03.09.2024 before the Sessions Court. All that the Applicant is now required is to execute a fresh PR bond. The Sessions Court shall not insist upon any further surety amount being tendered by the Respondent and shall treat the surety amount earlier deposited by case as surety on compliance of the present order. All that the Accused is

now required to do is to execute a fresh PR bond of Rs.50,000/-.

(ii) The Accused/Applicant shall furnish to the Sessions Court and 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;

(iii) The Accused/Applicant shall not interfere with any of the witnesses or attempt to contact them by himself or through any of his associates. He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing these facts to the Court.

(iv) The Applicant shall not leave the State of Goa without permission of the Sessions Court; If the Applicant possesses a passport he shall surrender the same and deposit such passport before the Sessions Court conducting the trial.

(v) The Accused/Applicant shall continue to reside at the address furnished by him, at Candolim and shall not change his place of residence without informing the Sessions Court at Panaji of the same.

(vi) The Accused/Applicant shall continue to attend hearings of Sessions Case No.(302) 8/2024 unless exempted from appearing on any date of hearing; He shall not fail to appear before the Sessions Court if so directed by that Court.

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

VALMIKI MENEZES, J.