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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO.54 OF 2025

Mr. Khatesh Tukaram Candolkar
S/o Tukaram Candolkar
Age 27 Years, Business,
presently in Judicial Custody, at Colvale Goa
R/o. H.No. 518/C, Wady Candolim-Goa,
Through His Next friend
his Father Mr. Tukaram Candolkar
R/o. H.No. 518, Wady Candolim-Goa. ... Applicant.

Versus

1. State
(Through the P.1 attached to
Porvorim-Police Station,
Porvorim-Goa)
2. State through the Public Prosecutor,
Having office in the Bldg.,
of High Court of Bombay at Goa. ... Respondents.

Mr. S.S. Kantak, Senior Advocate with Mr. Sagar Dhargalkar,
Ms. Neha Kholkar and Mr. J. Pawar, Advocates for the
Applicant.

CORAM: VALMIKI MENEZES, J.

DATED: 18th August, 2025

ORAL ORDER:

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

2. This is an application for bail under Section 483 of the BNSS by the Applicant who is Accused No.3 in FIR/Crime No.47/2024 registered on 16.04.2024 at the Porvorim Police Station. Applicant was arrested on 17.04.2024. Bail is sought by the Applicant on the grounds of parity with Accused Nos.2 and 6; Accused No.2 having been granted bail by an order of this Court on 05.08.2025 while Accused No.6 was granted bail by an order of this Court on 02.05.2025.

3. The facts which are relevant for considering the application, and which are reproduced from the Prosecution case, from order of 05.08.2025 referred above, are the following:

4. 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 charge-sheet 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.

5. From the reading of the charge-sheet, it is the case of the prosecution that at approximately 02:00 hours, on 16.04.2024, while LPSI Laureen 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 inquiry 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.

6. 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.

7. 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, 3 (Applicant), 5 and (by name). A statement of another witness, one Ritik Naik was recorded on 18.04.2024 records that he knows the Accused No.2 and the present Applicant (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 Accused No.2 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 No.2 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 the present Applicant (Khatesh)

assaulted that person. This witness further stated that Accused No.1 and the present Applicant (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.

8. In the present case, the Test Identification Parade conducted at the behest of witness Megha, the present Applicant has been identified as one of the persons who chased the deceased at the park, during the first part of the incident near a park at Chowgm Road. The other witness who was examined, one Ritik, who in his statement dated 18.04.2024 who has referred to the Applicant as one of the persons who got down from the Creta car and started assaulting a person. It later on came to his knowledge that the deceased was Mr. Rehbar. His statement further records that apart from Vikas and the Applicant, some other persons were also assaulting the said person who was brought in a Creta car, but he could not identify these other persons as it was dark. Ritik, in his witness statement, has also stated that he cannot identify the said persons if shown to him again.

9. Another witness named Biswajit Biswal, has given a statement on 18.04.2024, wherein he has stated that he has witnessed some persons who he does not know, assaulting one person continuously at a paddy field at Guirim. He states that he was in a car along with the

other witness Ritik, but since it was dark, he could not identify the persons who were committing the assault on the said boy. From this witness statements, the sole person who has identified the present Applicant as part of the group committing the assault is Ritik. However, from the perusal of his witness statement, prima facie, the witness himself is doubtful about the identity of the persons assaulting, as he claims it was dark. This could be established at the trial, and at this stage at least, since there is some doubt in the mind of this witness as to the clear identity of the assailants, a case has been made out to enlarge the Applicant on bail.

10. The Accused No.2 was granted bail mainly on the count that though the persons at the scene of the assault may have been to some extent established, his participation in the assault has not been specifically referred to by any of these two witnesses. In the present case too, though there is reference to the participation of the Applicant in the assault, there are no details of the part taken by the Applicant during the assault, to have resulted in the injuries on the body of the deceased, which have caused the death. Even if the witness statement is taken at its face value, whether it is a case of murder or not or whether it was a case of assault where the intention to cause death may not have been there, will have to be established in the trial. Another relevant factor to be considered would be that none of the witnesses refer to any weapon being used in the assault, and the reference made in the incident is merely to an assault to the persons

seen by the witnesses without referring to either the manner in which the assault took place or the part of the body of the victim at which the assault was directed.

11. Considering all these facts would have to be established at the trial and there are no criminal antecedents attributed to the Applicant, I proceed to pass the following order:

- i. Applicant shall be released on furnishing to the Sessions Court at Merces a PR Bond of Rs.50,000/- with one surety in the like amount.
- 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. Applicant shall not enter Bardez Taluka until all the above eyewitnesses have been examined by the Trial Court. The Applicant submits that he would reside at the house of his uncle Shri Kamlesh Sadanand Naik Gaonkar, resident of H. No. 51, Zuwar Wada, Tivrem, Marcela, Ponda, during this period. An Aadhaar card of his maternal uncle Kamlesh Gaonkar has been placed on record and shall be furnished to the I.O. and the Trial Court when executing the PR Bond.
- 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.
- vii. At the request of the learned Counsel for the Applicant, the condition of remaining outside the Taluka of Bardez will stand released, and the Applicant is permitted to celebrate Ganesh Chaturthi Festival with his family and reside at his house at Candolim at H.No. 518/C, Wady, Candolim-Goa from 26.08.2025 to 01.09.2025. During this period, the Applicant shall report to the Calangute Police Station on each of the days during which this relaxation applies.

12. The application stands disposed of in the above terms.
13. Parties to act on the authenticated copy of this order.

VALMIKI MENEZES, J.