



Suchitra

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (BAIL) NO.62/2025

SANTOSH KUMAR KAR

... APPLICANT

Versus

STATE OF GOA THROUGH
PUBLIC PROSECUTOR AND
ANR.

... RESPONDENTS

Mr Mark Valadares with Mr Arun De Sa Mr Sahil Sardessai and Mr Kishor Bhandodkar, Advocates for the Applicant.
Mr S. G. Bhobe, PP for the State.

CORAM: VALMIKI MENEZES, J.

DATED: 25th AUGUST 2025

P.C. :

1. The Registry to waive objections and register the matter.
2. This bail application arises on the basis of order dated 01.08.2025 passed by the Sessions Court in Case No.SCOR/24/2019, whereby bail was rejected to the applicant. From the record it appears that the applicant was arrested on 06.12.2018 in Crime No.230/2018 for an offence under Sections 370 (3) r/w 34 of the IPC, 1860 and under Sections 4, 5 and 7 of the Immoral Traffic (Prevention) Act, 1956. The above crime was registered at the Calangute Police Station, and the applicant is accused no.1 while another accused namely Manjunath Balganoor who is accused no.2 was also arrested on the same date i.e.

06.12.2018 and has been in custody throughout the trial without bail.

3. The present accused was granted bail by this Court on 03.11.2020 and was released from custody on 11.12.2020. However since he remained absent on 17.11.2021, an NBW came to be issued by the Trial Court which was ultimately cancelled on 07.12.2022 but thereafter during the course of the trial, due to his absence between 10.06.2022 and 06.12.2024, not only a NBW came to be issued against him but a proclamation was also issued, after which he surrendered before the Court on 06.12.2024 and has been denied bail, mainly for the reasons that he might jump bail and breach conditions. The accused herein also has three other trials pending viz. (i) SCORS/8/2018 before the District Judge-1 and Additional Sessions Judge, North Goa at Merces for offences under Section 370(3) r/w 34 IPC and Sections 3, 4, 5 and 7 of the Immoral Trafficking Act in Crime No.192/2017 registered at Calangute Police Station; (ii) SCORS/65/2017 before the District Judge-1 and Additional Sessions Judge, North Goa at Merces for offences under Section 370 IPC in Crime No.74/2016 registered at Calangute Police Station; and, (iii) SCORS/4/2025 before the District Judge-1 and Additional Sessions Judge, South Goa at Margao for offences under Section 370(A)(z) r/w 34 IPC and Sections 4, 5, 6 and 7 of the Immoral Trafficking Act in Crime No.149/2017 registered at Calangute Police Station. The accused however has been on bail in the aforementioned three matters and has not given any cause for the bail to be cancelled and has been throughout attending those trials.

4. In the present case, the record reveals that the two main witnesses, victims of trafficking, CW3 and CW4 has not been found since the year 2019 and despite attempts to serve summons on them through the investigating officer, they are not traceable. This has been recorded in the order of the Trial Court dated 28.07.2025. The trial has obviously been delayed since the main witnesses are not traceable and though the Court records that the trial has reached its fag end, throughout this period the accused no.2 has been in custody (for almost seven years), without the legal aid counsel appearing for him even attempting to press for his release on bail, considering the circumstances recorded by the Trial Court, that the witnesses CW3 and CW4 are not been traceable since 26.12.2019.

5. Considering all these facts, the applicant is released on bail on the following conditions:-

(a) The applicant shall furnish a fresh P.R. Bond of Rs.25,000/- with one surety in the like amount; the two sureties furnished earlier, whose bonds, if not cancelled shall suffice to stand surety to the present bond executed by the applicant;

(b) The applicant shall appear before the Trial Court on every date during the trial until its completion.

6. Considering my observations with regards to accused no.2 whose case has not been considered for bail, given the fact that the witnesses CW3 and CW4 have till date not appeared and he

is in custody for almost seven years, merely because his counsel on legal aid has not pressed for bail, the Trial Court still ought to have considered whether he should be released on bail.

7. The matter is before the Trial Court on 01.09.2025. The Trial Court shall consider all the aforementioned circumstances and give due credence to any other facts that are relevant for deciding and considering the release of the accused no.2 on bail on the next date of hearing. A copy of this order to be circulated to the Member Secretaries, North and South Goa District Legal Services Authority to inquire into the statistics as to how many accused similarly placed to accused no.2 to whom legal aid counsel has been appointed are without bail.

8. Application is disposed of in the above terms. Parties to act on an authenticated copy of this order.

VALMIKI MENEZES, J.