IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION (BAIL) NO.48 OF 2026

MR. MALCUM AGNELO PEREIRA
VERSUS
STATE OF GOA AND ANOTHER

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Mr. Vibhav Amonkar with Mr. Raj Chodankar, Advocates for Applicant.
Mr. Somnath Karpe, Additional Public Prosecutor with Ms. Samiksha Vaigankar, Advocates for Respondent Nos.1 and 2.
Mr. Ryan Menezes, Advocate for Victim.

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CORAM : S. G. CHAPALGAONKAR, J.
DATED : 01st OCTOBER, 2026.

FINAL ORDER:-

1. The applicant seeks pre-arrest bail in connection with Crime No.47/2026 dated 07.09.2026 registered with Cuncolim Police Station, South Goa for offence punishable under Section 121(1) of BNS, 2023.

2. The investigation was set in motion based on information given by Gerson S/o Antonio Joao Gomes stating that he is Sarpanch of village panchayat Chinchinim. The applicant was given Sopo Collection contract for year 2026-2027 within jurisdiction of said village panchayat. The applicant/accused had paid Rs.7,10,000/- and balance amount was due on him.

On 28.08.2026, Block Development Officer had called meeting of panchayat to discuss Sopo collection issue, suddenly he became aggressive and attempted to assault informant.

On 31.08.2026, panchayat body resolved that applicant should collect Sopo as per Government Gazetted rates. On 07.09.2026,

Secretary of panchayat called informant to panchayat office as vendors from village fair wanted to meet him regarding Sopo rates. At around 13.30 hrs. he reached panchayat office. At that time, applicant walked into his cabin and started recording video on phone demanding answer about Sopo collection. While informant was leaving panchayat office, applicant came from behind and pushed him from stairs. The informant fell down stairs. Thereafter, applicant kicked informant on his chest and head. After hearing commotion, panchayat members and vendors rescued informant. The applicant continued arguing with informant. The applicant picked up stone with intention to hit informant, however, panchayat members rescued him and call was given to police station. Thereafter, he was shifted to hospital.

3. The aforesaid information culminated into registration of Crime No.47/2026 for offence punishable under Section 121(1) of BNS, 2023.

4. Mr. Vibhav Amonkar, learned Advocate appearing for applicant submits that Major Church Fair was scheduled from September 13 to September 24, 2026. The local vendors refused to pay market/festival fees (Sopo Collection), as panchayat has not officially communicated rates to Church Fabrica. The applicant had agreement with panchayat for Sopo Collection for total sum of Rs.14,20,000/-. The applicant had deposited amount of Rs.7,10,000/- towards first installment with panchayat. On 31.08.2026, applicant had visited panchayat office to

clear matter. There was verbal altercation between applicant and informant-Sarpanch, which turned into physical scuffle. The applicant as well as informant had suffered injuries.

5. On registration of Crime No.47/2026 applicant was served with notice under Section 35(3) of BNS, 2023. The applicant responded to said notice and co-operated with investigation. The applicant has been falsely implicated in said crime giving false version of incident. The applicant was granted interim protection of pre-arrest bail, he has abided with conditions. His custodial interrogation would not be necessary. Accordingly, it is urged that interim protection of pre-arrest bail may be confirmed.

6. Per contra, Mr. Karpe, learned Additional Public Prosecutor appearing for respondent/State vehemently opposes pre-arrest bail application. He points out that incident is not disputed by applicant. The informant has received injuries. The applicant has repeatedly attacked informant-Sarpanch. Had Panchayat members not rescued informant, his life would have been in danger. There are criminal antecedents at discredit of applicant. His custodial interrogation would be necessary to establish motive behind offence and confront applicant with material collected during investigation. The applicant has given threat to family of informant. His release would hamper fair investigation and trial. He submits that requirement of custodial

interrogation itself is not criteria to grant anticipatory bail, although it may be one of the relevant aspect to be considered. There is, *prima facie*, case against applicant. The offence is serious in nature. Hence, applicant is not entitled for grant of pre-arrest bail. In support of his contentions, he relies upon observations of Supreme Court in case of ***Sumitha Pradeep Vs. Arun Kumar C.K. and Another***[1].

7. Mr. Ryan Menezes, learned Advocate appearing for victim reiterates contentions of learned Additional Public Prosecutor.

8. There cannot be contest that grant of pre-arrest bail stands on different footing than grant of regular bail. The Court has to consider nature of offence, punishment prescribed therefor, and interest of fair and proper investigation. The requirement of custodial interrogation would also be an important factor to be considered while deciding application for pre-arrest bail. In present case, FIR has been registered for offence punishable under Section 121(1) of BNS, 2023, which prescribes maximum punishment upto five years or fine or both. The offence can be made out once it is established that public servant is subjected to voluntarily hurt with intent to prevent or deter him from discharging his duty as such public servant.

9. The contents of FIR depicts that applicant had entered into contract regarding collection of market/festival fees and he has

1 **(2022) 7 SCC 391.**

deposited amount of Rs.7,10,000/- with panchayat against right to collect market/festival fees. The dispute occurred as regards to rates of collection of market fees. It was for panchayat to clarify the same. Several meetings were conducted to resolve controversy. In such a meeting scuffle took place. The material on record indicates that informant as well as applicant suffered injuries, although crime is registered against applicant on complaint of informant Sarpanch.

10. The hurt certificate depicts that informant suffered simple injuries. No weapon was used. The allegation is about assault by fist and kick blows.

11. Upon registration of offence, applicant was served with notice under Section 35(3) of BNS, 2023. In response to notice, he attended Police Station, surrendered his mobile phone, wherein incident has been recorded. Although it is claimed on behalf of prosecution that applicant failed to co-operate in investigation, no specific incidence of non-cooperation is brought on record. The reasons given in support of custodial interrogation are fallacious. The inception of incident is in contractual dispute. The possibility of incorporating exaggerated version of incident cannot be ruled out. Whether act of applicant was with intention to deter informant from performing his official duties will have to be examined during course of trial, but on *prima facie* consideration, no such intention is discernible from allegations made in

complaint. It is confirmed during investigation that applicant has suffered injuries in scuffle for which there is no explanation in FIR or investigation papers.

12. Although there are five antecedents, those are not pertaining to similar offences and none of such prosecution ended with conviction.

13. By order dated 11.09.2026, this Court granted interim protection of pre-arrest bail to applicant by incorporating conditions. There is no complaint of breach of any condition. Hence, following order:

ORDER

a. Criminal Miscellaneous Application (Bail) is allowed.

b. The interim protection of pre-arrest bail granted to applicant by this Court vide order dated 11.09.2026 in connection with Crime No.47/2026 dated 07.09.2026 for offence punishable under Section 121(1) of BNS, 2023 is confirmed.

c. In the event of arrest, applicant be enlarged on bail on furnishing PR Bond of Rs.50,000/- with one surety of like amount, on following conditions:

i. The applicant shall not enter into Chinchinim Village till filing of charge-sheet except to visit police station as required.

ii. The applicant shall not tamper with evidence or attempt to coerce witnesses and shall co-operate with investigation till filing of charge-sheet.

iii. The applicant shall visit Cuncolim Police Station, South Goa on every Thursday between 10.00 am to 02.00 pm till filing of charge-sheet.

iv. The applicant shall not indulge in similar offence.

v. The applicant shall furnish his local address with supporting documents and contact number with Investigating Officer and shall act upon messages/communications made by Investigating Officer on said contact number.

(S. G. CHAPALGAONKAR)
JUDGE

Devendra/October-2026