

2023 SCC OnLine Bom 1611

In the High Court of Bombay at Goa
(BEFORE PRAKASH D. NAIK, J.)

Ravishankar Yadav ... Applicant;

Versus

State, Police Inspector and Another ... Respondents.

Criminal Misc. Application (Bail) No. 488 of 2023 (F)

Decided on August 7, 2023

Advocates who appeared in this case:

Mr. Rohan Desai, Advocate for the Applicant.

Mr. S. G. Bhohe, Public Prosecutor for the Respondent.

The Order of the Court was delivered by

PRAKASH D. NAIK, J.:— Heard Mr. Desai, learned counsel for the applicant and Mr. Bhohe, learned Public Prosecutor for the respondent-State.

2. The applicant was arrested on 16.07.2021 in connection with Crime No. 50/2021 registered with Vasco Police Station for offence punishable under Sections 302 and 307 of Penal Code, 1860, (IPC).

3. The case of the prosecution is that the complainant and the deceased called for negotiations in respect to the transaction relating to sale of plot. The co-accused fired at the deceased and also tried to kill the complainant. It is alleged that there was animosity between the deceased and accused no. 4 who had hired the assailants to liquidate the deceased. On completing investigation, chargesheet is filed.

4. Learned Advocate for the applicant submitted that undisputedly the applicant is not the assailant in the crime. He was not found anywhere near the spot of incident. There is no evidence to show his connection with the incident of firing at the deceased. The applicant was allegedly conspirator in the crime and the prosecution is relying upon the statement of the brother of the applicant and the two servants from the guesthouse where the assailants were residing at the time of incident. It is submitted that there is no other cogent evidence to establish that there was any conspiracy between the applicant and the accused no. 4. The amount which is allegedly credited into the bank account of the applicant at the instance of the accused no. 4, was in relation to a different transaction which has no connection with the present crime. It is further submitted that the applicant has no criminal antecedents. He is in custody for a period of about two years. The regular Court is not available for proceeding with the trial expeditiously.

It is not clear as to when the trial would be over, hence bail may be granted to the applicant.

5. Learned Public Prosecutor submitted that the offence is of serious nature. There is sufficient evidence to show that the applicant was a conspirator in the crime. He acted in connivance with the accused no. 4. The brother of the applicant was running the guesthouse and his statement reveals that accused nos. 1 and 2 were occupying the premises in the guesthouse at the instance of the applicant. It is further submitted that substantial amount was credited in the bank account of the applicant at the instance of the accused no. 4. The evidence of the complainant is being recorded and is under cross examination. In all fairness it is submitted that the regular Court is not available and the charge is handed over to another Court which has proceeded with the recording of the evidence but also dealing with other regular matters assigned to that Court. The prosecution would endeavour to examine the witnesses as early as possible. In the light of nature of evidence in favour of the applicant, bail may not be granted.

6. On perusal of the chargesheet, it is evident that the applicant was charged as conspirator in the crime. The applicant is in custody for a period of about two years. It is not clear as to when the trial would be over. The statement of the brother of the applicant and the two witnesses from the guesthouse indicate that the co-accused was occupying the premises in the said guesthouse. It is alleged that they were residing there at the instance of applicant and some amount has been credited in the bank account. However, there is no cogent evidence to establish that the amount which was credited into the bank account of the applicant was handed over to the assailants. It is also not the case of the prosecution that beyond the overact attributed to the applicant as stated above, the applicant has played any vital role in commission of the crime of firing at the deceased or assaulting the complainant or aided the co-accused in committing crime. Considering the facts of the case and period of incarceration undergone by the applicant, bail can be granted on certain conditions. Accordingly, the following order is passed:

ORDER

- (i) Criminal Application (Bail) no. 488 of 2023 is allowed.
- (ii) The applicant is directed to be released on bail in connection with Crime no. 50 of 2021 registered with the Vasco Police Station, on executing PR bond of Rs. 50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
- (iii) The applicant shall report to the Vasco Police Station once in a month on every first Saturday between 11.00 a.m. to 1.00 p.m. commencing from 02.09.2023, till further orders.
- (iv) The applicant shall not tamper with the evidence.

(v) The applicant shall attend the trial Court on every date of hearing unless exempted by the trial Court.

(vi) Application stands disposed of.

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