

2023 SCC OnLine Bom 1893

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

Manish Das ... Applicant;

Versus

Police Inspector Officer and Another ...
Respondents.

Criminal Application Bail No. 632 of 2023-F

Decided on September 5, 2023

Advocates who appeared in this case:

Mr. R. Desai, Advocate for the petitioner.

Mr. P. Faldessai, Addl. Public Prosecutor for the respondents.

The Order of the Court was delivered by

PRAKASH D. NAIK, J.:— The applicant is seeking bail in connection with Crime No. 208/2020 registered with Verna Police Station for offence under Section 302 read with 34 of IPC. The applicant was arrested on 28.12.2020.

2. The case of the prosecution is that on 27.12.2020 the accused and the victim had gone to dando beach at Velsao Mormugao. The deceased was assaulted by the accused. He suffered injuries. Subsequently he succumbed to the injuries.

3. Four persons were arrested in this case. Accused no. 1 and the applicant are in custody whereas two other accused were discharged by this Court vide order dated 3.3.2022. The applicant had earlier preferred an application for bail before this Court which has been rejected by order dated 5.4.2022.

4. Learned counsel for the applicant submitted that the applicant is in custody for a period of above 2 years and 8 months. Although trial has commenced, prosecution has so far examined three witnesses. Several other witnesses are yet to be examined and it is not clear as to when trial will be concluded. The applicant and the accused no. 1 are in custody and two other accused who were allegedly involved in commission of crime were discharged. The applicant, accused no. 1 and accused no. 3 had also suffered injuries. It appears that there was scuffle between accused and the victim. There was no intention to commit murder. Since three accused had suffered injuries it is possible that the accused had exercised right of private defence.

5. Learned Addl. Public Prosecutor submitted that previous application was rejected on merits vide order dated 5.4.2022. There is

no change in circumstances. Co-accused were discharged by this Court vide order dated 3.3.2022 which is prior to rejection of the application for bail preferred by the applicant. The grounds urged for bail were considered while adjudicating the previous application for bail. Trial has already commenced. Accused are involved in offence of murder. There is evidence against the applicant in the nature of CCTV footage which indicates that accused had visited liquor shop for purchasing liquor before occurrence of incident.

6. Undisputedly, there is no eye witness to the incident. Case is based on circumstantial evidence. The applicant and the two other accused had suffered injuries. I am conscious of the fact that previous application preferred by the applicant is rejected by this Court however, in the light of the evidence against the applicant and the fact that he is in custody for a period of two years and eight months, further detention is not called for. Although, trial has commenced, it is not clear as to when it would be concluded. Out of four accused two accused are discharged by this Court. One amongst them had suffered injuries. There is no clarity as to how incident had occurred. However, fact is three accused sustained injuries. Bail can be granted to the applicant on certain conditions.

ORDER

- a. Criminal Application (Bail) No. 632/2023 (Filing) is allowed.
- b. The applicant is directed to be released on bail in connection with FIR No. 208/2020 registered with Verna Police Station on executing PR bond of Rs. 25,000/- with one or more sureties in the like amount to the satisfaction of the trial Court.
- b. The applicant shall not indulge in any activity that would amount to tampering with evidence and influencing witnesses.
- c. The applicant shall report to the Verna Police Station once in three months on first Saturday of the month between 11.00 a.m. and 1.00 pm, till the completion of trial.
- d. The applicant shall furnish details of his residential address and all contact details along with mobile number to the trial Court as well as the Investigating Officer.
- e. The applicant shall regularly attend the trial Court on the date of hearing of case unless exempted by the trial Court for some reason.
- f. The applicant shall not leave State of Goa without prior permission of the trial Court.
- g. The Criminal Application (Bail) No. 632 of 2023(Filing) is disposed of.

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