

Learned Assistant Public Prosecutor, Shri. D. Gawas for the prosecution.

Learned Advocate Shri. G. Gaonkar present for the Applicant.

ORDER

(Delivered on this 5th day of the month of January of the
year 2018)

This order shall dispose of the application under
Section 437 of the Code of Criminal Procedure at Exhibit C-1.

2. Heard Learned advocate Shri. G. Gaonkar for the Applicant and Learned Assistant Public Prosecutor Shri. D. Gawas for the Respondent. The sole point which arises for consideration before me is whether the Applicant is entitled to be enlarged on bail.

3. Ld. A.P.P. Shri. D. Gawas submitted that remand application may be treated as reply to the bail application.

4. The arguments canvassed by Ld. Advocate Shri. G. Gaonkar for the Applicant is that the custody of accused is not required. Hence bail may be granted.

5. Learned A.P.P. Shri. D. Gawas has submitted that appropriate conditions may be imposed at the time of granting bail.

6. The I.O has sought Judicial custody of the accused which points out that custody is not required for investigation. That offence under Section 429 of I.P.C is bailable in nature.

7. The principles regarding granting of bail are well settled. The Hon'ble Supreme Court in the case of **Sanjay Chandra v. CBI, A.I.R. 2012 S.C. 830**, has laid down that "the object of bail is to secure appearance of the accused at the time of his trial by reasonable amount of bail. Its object is neither punitive nor preventive; deprivation of liberty must be held to be a punishment unless it can be required to ensure that accused will stand his trial when called for. Same being most extraordinary circumstances, deprivation of personal liberty only upon the belief that he will tamper with witnesses is left at liberty would be contrary to very concept of personal liberty enshrined in constitution. The Courts owe more verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and found guilty."

8. Further, Hon'ble Bombay High Court in **Shri. Khemlo Sakharam Sawant vs. State, 2001 (2) G.L.T. 111**, has laid down that "Bail is a rule and jail is an exception, particularly when offence does not involve life imprisonment or death sentence.

9. Keeping this settled principles in mind in the above referred decisions of **Sanjay Chandra** and **Khemlo Sakharam Sawant (supra)** and considering the facts and circumstances of the instant case, I am of the opinion that the no ground is made out for further police custody of the Accused and the Applicant can be enlarged on bail by imposing stringent conditions on the Applicant at the time of enlarging the him on bail. It is settled law that bail is rule and jail is an exception except in cases of offences punishable with death and life imprisonment.

10. Hence, I pass the following Order:-

FINAL ORDER

The application is granted.

The Applicant is granted bail upon the following terms and conditions:-

- (a) The Applicant be released on bail in Crime No. 01/2018 if not required in any other crime upon execution of personal bond of Rs. 10,000/- (Rupees Ten Thousand only) and upon furnishing one local solvent surety in the amount of Rs.10,000/- (Rupees Ten thousand only) and on the following terms and conditions mentioned below.
- (b) The Applicant shall report to the I.O. for investigation, as

and when directed by the I.O. up till the filing of final report under section 173 of the Code of Criminal Procedure, 1973 in this crime.

- (c) The Applicant shall not hamper the investigation and/or threaten the witnesses in Crime No. 01/2018 after being enlarged on bail.
- (d) The Applicant 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 or her from disclosing such facts to the Court or to any police officer or to tamper with the evidence.
- (e) The Applicant shall not leave the State of Goa without obtaining prior permission/Order in writing from the Court and without intimating the Investigating Officer.
- (f) The Applicant shall co-operate with the Investigating agency in relation to the investigation in the said crime.
- (g) The Applicant shall appear before the police, the Investigating Officer or the Court as and when required and called for in relation to Crime No. 01/2018.
- (h) The Applicant shall furnish to the Investigating Officer and also before the Court two documents as his identity proof before release in the said Crime No. 01/2018. He shall also furnish his contact number to the Investigating Officer.

- (i) The Applicant shall furnish his detailed permanent residential address to the Investigating Officer before his release.
- (j) The Applicant shall not commit an offence of similar nature of which he is presently accused of while on bail.

The Investigating Officer strictly to obtain from the Accused person/Applicant his identity proof details before his release.

The records and proceedings of this bail application to be tagged along with final report under Section 173 of Code of Criminal Procedure, 1973 as and when filed by the police in the present crime number.

Pronounced in the Open court.

Proceedings closed.

Valpoi.

Dated: 05-01-2018.

(Shanoor alias Jagdish P. Audi)
Judicial Magistrate First Class,
Sattari at Valpoi.

Spa/-