

**IN THE HIGH COURT OF BOMBAY AT GOA.
(LD-VC-BA-38/2020)**

Ravi Patil ...Applicant.

Vs

The Police Inspector & Ors. ...Respondents

Shri Rohan Desai, Advocate for the applicant.

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

**Coram:- DAMA SESHADRI NAIDU, J.
Date:23rd October 2020.**

PC.

The applicant is the fourth accused in Crime No.22/2013, registered by Agassaim Police Station, in Sessions Case No.42/2013. The offence attracts sections 302, 201, and 120(b) of IPC. The applicant, along with six others, is said to have planned and murdered the victim. Arrested on 25.3.2013, the applicant has been in judicial custody ever since.

2. Unsuccessful in his efforts to get the bail from the trial Court, the applicant has filed this application under section 439 of Cr.P.C.

3. Heard Shri Rohan Desai, the learned counsel for the applicant, and Shri Pravin Phaldessai, the learned Additional Public Prosecutor for the respondents.

4. Indeed, the applicant's counsel has contended that there is no direct evidence against the applicant. All that the prosecution could secure against the applicant was only circumstantial evidence. In this context, he has pointed out that the identification parade was flawed; so was the seventh accused's confessional statement under Section 164 of Cr.P.C. He stresses that the so-called confessional statement has been tainted with inducement. In the end, the learned counsel has submitted that the

applicant has already been in pre-conviction incarnations for over seven years and without any criminal antecedents, at that. Therefore, he has urged this Court to enlarge the applicant on bail.

5. On the other hand, the learned Additional Public Prosecutor has drawn my attention to this Court's order in LD-VC-BA-47/2020. That was the bail application filed by the second accused in the Crime. The Court disposed it of by assigning reasons and by preserving the second accused's right, in that case, to renew his request in three months for bail. According to the learned Additional Public Prosecutor, the second accused and the applicant stand on the same footing, for they faced the same allegations. As to the enlargement of the sixth accused on bail, the learned Additional Public Prosecutor has pointed out that this Court did observe in the bail order that neither the complaint nor the charge sheet had any specific allegations against him. At any rate, he has urged not to entertain the bail application in this case but to issue a similar direction as this Court did in LD-VC-BA-47/2020.

6. Indeed, it may be premature for the Court to rule on what is said to have been a flawed identification parade. The same logic applies to the alleged inducement that prompted the seventh accused to make the confessional statement. But the fact remains that the applicant has been in judicial custody for over seven years. He has no criminal antecedents, either. So the Court has to balance the severity of the offence with the liberty of the individual, besides the all-important societal interest.

7. Under these circumstances, as the learned Additional Public Prosecutor has contended, the second accused and the applicant, perhaps, stand on the same footing, For the reasons mentioned in the order, dated 14.10. 2020 in LD-VC-BA-47/2020; I hold that the applicant may come up with a new application for bail in three months as the prosecution assures the Court that it will, in the meanwhile, examine the remaining material witnesses.

With the above observations, I close the bail application.

DAMA SESHADRI NAIDU, J.

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