

IN THE HIGH COURT OF BOMBAY AT GOA.

(LD-VC-BA-34/2020)

Suresh K. Solanki Applicant.

Vs

Police Inspector & ors. Respondents.

Shri A. D'Sa, Advocate for the applicant.

Coram:- DAMA SESHADRI NAIDU, J.

Date:- 28th August 2020.

P.C.

The applicant is the accused no.2 in Sessions Case No.13/2018. It was for the alleged offences under Sections 120B, 302, and 201 of IPC. The crime concerns a brutal murder by five people, one of them being the victim's wife. Later, in course of time, the applicant has applied to turn an approver. In that process, his confessional statement was recorded under Section 164 of Cr.P.C. His earlier bail application rejected by the trial Court, the applicant has approached this Court.

2. The learned counsel for the applicant has submitted that the applicant must have been a witness rather than an accused in the crime. He has taken me through the entire record and also the statement under Section 164 Cr.P.C. He stresses that the applicant entered the scene only after the murder was committed. Besides, the learned counsel has

advanced the usual submissions such as the applicant's law-abiding nature and cooperation in the investigation.

3. Nevertheless, the prosecution has attributed over acts to the applicant. The learned Public Prosecutor, too, has opposed the bail.

4. Heard the learned counsel for the applicant and the learned Public Prosecutor for the respondents.

5. It is a heinous crime. No doubt. But we ought to see the role the applicant has played in that crime. Read in its entirety, the applicant's statement under Section 164 Cr. P. C reveals that the applicant took part, if ever, in the crime only after the murder was committed. By his own admission, the applicant seems to have played a role in screening the evidence. Thus, at best, his alleged role in the crime may attract Section 201 of IPC.

6. Besides, the learned Public Prosecutor has not contradicted the statement made by the applicant's counsel that the applicant has cooperated in the investigation and has even volunteered to turn an approver. That apart, when the trial Court dismissed the applicant's application to turn an approver, both the applicant and the prosecution have challenged that before this Court.

7. Under these circumstances, I reckon it serves the interest of justice if the applicant is enlarged on bail, subject to the following conditions:

Result:

ORDER

- (i) Criminal Misc. Application (Bail Application) is allowed.
 - (ii) The applicant is directed to be released on bail on his executing Personal Bond for ₹50,000/- and on his furnishing two sureties, each for the like sum, to the satisfaction of the learned Additional Sessions Judge, (FTC-I) South Goa, Margao.
 - (iii) The applicant shall not influence, induce, threaten, or coerce the witness; nor should he abuse the process.
 - (iv) The applicant should not indulge in any criminal or anti-social activities while he is free on bail.
 - (v) The applicant's failure to abide by these conditions will entail the prosecution to apply for the cancellation of bail now granted to the applicant.
 - (vi) Bail Application stands disposed of.
8. Parties to act on the basis of authenticated copy of this order.

DAMA SESHADRI NAIDU, J.

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