

IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-BA-43 OF 2020

Sunanda Naik Applicant.

V e r s u s

State of Goa and Anr. Respondents.

Shri V. Amonkar, Advocate for the Applicant.

Shri S. Dhargalkar, Addl. Public Prosecutor for the respondents.

Coram:- DAMA SESHADRI NAIDU J.

Date: 11th September 2020

P.C.

One family complains to the police against another family of violence and injury. Both families live under the same roof, with different entrances. Now, in judicial custody is one entire family: the husband (A1), the wife (A2), and their children (A3 to A5). Five in all.

2. The *de facto* complainant complained 6.6.2020 against the applicant and other members of her family. Then the Ponda Police Station registered the Crime No.136/2020. It is for alleged offences under Sections 307, 326, 354, 504, 143 and 148 of IPC. The applicant was arrested on 10.8.2020; she has still been in judicial custody. Her application to the trial Court met with failure. Now she has come before this Court with this application under Section 439 of Cr.P.C.

3. Going by the record, I see a bitter rivalry between two families—neighbours. There is no love lost between them, and allegations at both ends fly thick and fast. But the applicant and her family faced specific allegations of assaulting the neighbours, by inflicting severe injuries on one of them. Of course, now all the members of the family have been arrested and remanded in judicial custody.

4. Given the gravity of the offence and, perhaps, given the additional fact that two of the accused had absconded, the trial Court refused bail to the applicant: A2.

5. Now the learned counsel for the applicant argues that the entire prosecution case does not attribute any overt act to the applicant. Even the complaint does not disclose anything against the applicant. According to him, she is a woman and housewife already in judicial custody for over one month.

6. After the trial Court dismissed the bail application, certain events took place. According to the learned counsel, they mitigate the rigour of the allegations. The other two members in the crime, too, have been arrested; the investigation has substantially been completed. Therefore, he has urged this Court to enlarge the applicant on bail.

7. In response, the learned Additional Public Prosecutor has contended that this Court may keep in mind the gravity of the offence. According to him, they are neighbours, and there is still potential for a flare-up of violence should the applicant be released on bail. In this context, he has also pointed out that when the applicant applied for anticipatory bail, she was on the run; only after it was rejected, the police could apprehend her. Nevertheless, in the end, the learned Additional Public Prosecutor wants the Court to impose stringent conditions if it intends to enlarge the applicant on bail.

8. Heard Shri V. Amonkar, the learned counsel for the applicant, and Shri P. Faldessai, the learned Additional Public Prosecutor for the respondents.

9. The severity of the allegations apart, the fact remains that it is an incident in a village between two neighbours who appear to have already had certain property disputes. The trigger point seems to be the complaint the applicant's family lodged before the civic authorities about the alleged illegal construction undertaken by the *de facto* complainant's family. Of course, the familial background and the neighbourly rivalry does not discount the severity of the crime.

10. That said, the fact remains that the applicant is a woman with no criminal antecedents. Besides, now her entire family has been in judicial custody. The investigation is said to have been substantially completed, save the formality of the police filing the charge sheet.

11. Under these circumstances, I allow this application and enlarge the applicant on bail, subject to these conditions:

- (i) The applicant is directed to be released on bail on her executing P.R. Bond for Rs.25,000/- and on her furnishing two sureties, each for the like sum, to the satisfaction of the learned Additional Sessions Judge, Panaji, sitting at Ponda.
- (ii) The applicant should not leave the State of Goa, without prior permission of the learned Additional Sessions Judge, Panaji, sitting at Ponda.
- (iii) The applicant shall attend the hearing of the case on the dates fixed by the trial Court.
- (iv) The applicant shall not influence, induce, threaten, or coerce the witness; nor should she abuse the process.
- (v) The applicant shall not cause any obstructions to the neighbours enjoying their property, nor should she trespass upon their property.
- (vi) 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.
- (vii) The Bail Application stands disposed of.

DAMA SESHADRI NAIDU, J