

IN THE HIGH COURT OF BOMBAY AT GOA

LD-VC-BA-119 OF 2020

Siddharth Naik, Presently
in Colvale Jail Applicant.

V e r s u s

State and Anr. Respondents.

WITH

LD-VC-BA-120 OF 2020

Sonarth Naik,
Presently in Colvale Jail. Applicant.

V e r s u s

State and Anr. Respondents.

Shri V. Amonkar, Advocate for the Applicant.

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

Coram:- DAMA SESHADRI NAIDU J.

Date: 21 December 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. The entire family—the husband (A1), the wife (A2), and their children (A3 to A5), five in all—was in judicial custody. Earlier, this Court, through its order dated 11.09.2020, released the wife (A2) on bail. Later, through another order dated 1.10.2020, it released the husband (A-1).

2. As to the facts, the *de facto* complainant complained on 6.6.2020 against the applicants and their parents. Then the Ponda Police Station registered Crime No.136/2020. It is for alleged offences under Sections 307, 326, 354, 504, 143 and 148 of IPC. The applicants were arrested on 28.8.2020; they have still been in judicial custody. Their applications to the

trial Court for regular met with failure, now they have has come to this Court, invoking Section 439 of Cr.P.C.

3. Going by the record, I see a bitter rivalry between the two families—neighbours. There is no love lost between them, and allegations at both ends fly thick and fast. But the applicants and their 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. Now the learned counsel for the applicants argues that the entire prosecution case does not attribute any overt act to the applicants. Even the complaint does not disclose anything against the applicants. According to him, they have already been in judicial custody for over three months.

5. After the trial Court dismissed the bail applications, certain events took place. According to the learned counsel, they mitigate the rigour of the allegations. The investigation has substantially been completed. Therefore, he has urged this Court to enlarge the applicants on bail.

6. 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 applicants be released on bail. In this context, he has also pointed out that when the applicants applied for anticipatory bail, they were on the run; only after the applications were rejected, could the police apprehend them. Nevertheless, in the end, the learned Additional Public Prosecutor wants the Court to impose stringent conditions if it intends to enlarge the applicants on bail.

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

8. 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 do not discount the severity of the crime.

9. That said, the fact remains that the applicants are people with no criminal antecedents. Besides, now their entire family had been subjected to judicial custody. The investigation is said to have been substantially completed, save the formality of the police filing the charge sheet.

10. Under these circumstances, I allow these applications and enlarge the applicants on bail, subject to these conditions:

ORDER

- i. The applicants are directed to be released on bail on their executing P.R. Bond for ₹25,000/- each, and on their furnishing two sureties each, for ₹15,000/- a piece, to the satisfaction of the learned Additional Sessions Judge, Panaji, sitting at Ponda.
- ii. The applicants should not leave the State of Goa, without prior permission of the learned Additional Sessions Judge, Panaji, sitting at Ponda.
- iii. The applicants shall attend the hearing of the case on the dates fixed by the trial Court.
- iv. The applicants shall not influence, induce, threaten, or coerce the witness; nor should he abuse the process.
- v. The applicants shall not cause any obstructions to the neighbours enjoying their property, nor should they trespass upon their property.
- vi. The applicants' failure to abide by these conditions will entail the prosecution to apply for the cancellation of bail now granted to the applicants.
- vii. The Bail Applications stand disposed of.

DAMA SESHADRI NAIDU, J