



**CNR NO. GANG010018742022**

Presented on : 04.10.2022  
Registered on : 04.10.2022  
Reserved on : 20.10.2022  
Decided on : 03.11.2022  
Duration : Days Months years.  
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**IN THE COURT OF ADDITIONAL SESSIONS JUDGE,  
FTC, NORTH GOA, MAPUSA.**

(Before: Smt. Sharmila Patil, Additional Sessions Judge, FTC,  
North Goa, Mapusa)

**Bail Application No.251/2022.**

Mr. Shanawaz Irshad Pirkhan  
alias Sahil Khan,  
Son of Mr. Irshad Sayyadsab Pirkhan,

Aged 32 years, married, Occ. Service,

R/o. Ward No.478, Matwada,

Near Balbhavan,

Querim, North Goa – 403405.

... Applicant.

Versus

1. State of Goa

(Through Police Inspector,  
Bicholim Police Station,  
Bicholim - Goa.

2. Public Prosecutor,

North Goa, Panaji - Goa.

... Respondents.

Applicant represented by learned Advocate Shri S. Gaonkar.

Respondents represented by learned Public Prosecutor Shri R. Barreto.

### **O R D E R**

**(Delivered on this the 3<sup>rd</sup> day of the month of November, of the year, 2022)**

1. This is an application for bail under Section 439 of the Code of Criminal Procedure (in short, the Cr.P.C.).

2. **Case of the applicant:-** That the applicant is arrested by the respondent no.1 on 14.09.2022 in their Crime No.104/2022, registered for alleged commission of offences punishable under Sections 341, 364-A, 365, 380, 395, 506(ii) of the Indian Penal Code, 1860 and Sections 3 and 27 of the Arms Act, 1959. The

applicant is presently in judicial custody at Sub Jail Colvale, Bardez Goa.

3. That the applicant is innocent and is not involved in any manner in any crime. That the complainant has filed a false complaint against the applicant. The applicant has been falsely implicated and arrested by the respondent no.1. That the presence of the applicant in judicial custody is not required for any purpose. That the applicant is ready and willing to co-operate with the investigation in any manner. He is ready and willing to furnish local sureties to the satisfaction of this Hon'ble Court.

4. That the applicant is the permanent resident of Matwada, Querim, North Goa and having his roots in Goa, he is the only earning member of his family, that he will not abscond and tamper with the evidence, he will abide by all the conditions laid down by this Hon'ble Court. That this is the first bail application filed by the applicant. There is no other bail application pending in any Court subject in respect of the same subject matter.

5. **Say of respondent no.1:-** That on 14.09.2022 at 23.43 hrs., complainant Shri Likhith, s/o. Sunil Pachanekar, aged 36 years, Occ.

SBI Branch Manager, R/o: C-302, Landscape shire, Near Old Post Office, Caranzalem, Panaji, Goa, N/o: Mumbai, Maharashtra lodged his complaint to the effect that between 13.09.2022 at 20.30 hrs to 14.09.2022 at 08.30 hrs from Shantadurga Sateri Temple, Amona to SBI Querim branch, 05 unknown accused persons, between the age group of 25 to 35 yrs criminally restrained the complainant at Amona, Sanquelim and abducted him at the point of 'Gun' and 'knife' who was on the way to his residence at Caranzalem on his m/cycle make – TVS Apache RTR 160 bearing Reg. No.MH-03-AP-9023.

6. Furthermore, all the unknown accused persons threatened the complainant with dire consequences to kill him and his family members and thereafter forcibly took him to various destinations at Sanquelim and later to SBI Querim Branch in one Wagon R Car No.GA-01-R-7724 brought by them. In furtherance, all the 05 accused persons at the point of 'gun' compelled the complainant to open the main shutter door of the bank, to unlock their safe vault and thereafter stole away cash amounting to Rs.10 lakhs approximately in different denominations and 06 pouches containing gold (Value not known) belonging to the different customers.

7. In this connection, an offence at Bicholim Police Station vide Crime No.104/2022 under Section 341, 364-A, 365, 380, 395, 397, 506(ii) IPC and Section 3 and 27 of Arms Act was registered and the investigation was taken up. Subsequently, visited the crime scene which was pointed out by the complainant and conducted detail Scene Panchanama in presence of two respectable panchas. Subsequently, an official letter from the SBI Branch, Querim has been received wherein it is confirmed that an amount of Rs.8,74,000/- and gold weighing 1175.26 gms has been taken away by the culprits on the alleged day of offence.

8. The accused/applicant was apprehended by the police on 15.09.2022 at Old Goa and placed under arrest at Bicholim Police Station at 19.36 hrs after observing all Supreme Court guideline. On the same day i.e. on 15.09.2022, 02 accused persons namely 1) Raju Kumar Das s/o Rajesh Das, aged 24 years, Occ- Labour, R/o: Bhatim, Goa Velha, Tiswadi, Goa and 2) Jitendra Kumar, S/o Brijnandan Sharma, aged 30 years, Occ- Tiles Fitter, R/o. Near Market, Goa Velha, Tiswadi, Goa were arrested.

9. In this case, Maruti Wagon R Car bearing Reg. No.GA-01-R-7724 used during the commission of this offence, stolen gold orna-

ments weighing 1107 gms @ Rs.50,00,000/- approximately, stolen cash of Rs.1,60,000/- and one knife were recovered at the instance of accused namely Jitendra Kumar.

10. The 4<sup>th</sup> accused person namely Kiran s/o Krishna Ghorpade, aged-23 years, R/o: Batim, Goa Velha, N/o: Village-Mannur, Tal-Devrhippergi, Dist-Bijapur, Karnataka was arrested on 17.09.2022.

11. The 5<sup>th</sup> accused person namely Mantesh s/o Rajashekar Goranala, aged 23 years, N/o: Basavarajendra Naar, Indi (Rural), Bijapur, Karnatakawas was nabbed at Bangluru, Karnataka by the police team and later placed under arrest at Bicholim Police Station on 18.09.2022.

12. During the custodial interrogation, the accused/applicant voluntarily showed the weapon of offence i.e. one Airgun Pistol (Gun) used for the commission of an offence at his residence at Querim which has been recovered under 'Recovery Panchanama' under Section 27 of I. E. Act.

13. The Test Identification Parade of all the 05 arrested accused persons has been conducted wherein the complainant has duly identified all of them before the Jt. Mamlatdar & Executive

Magistrate, Bicholim held on 06.10.2022. In the present case, total cash of Rs.5,79,000/- has been recovered at the instance of 05 arrested accused persons, however, a remaining stolen cash of Rs.2,95,000/- is still to be recovered.

14. The crime committed by the accused/applicant is serious in nature wherein all of them have hatched criminal conspiracy and abducted branch manager at the point of gun and knife and decamped with cash and gold belonging to the different customers. The accused/applicant is the kingpin in this case who brought the weapon of offence i.e. one Airgun Pistol used during the commission of this offence. Similarly, stolen cash of Rs.1,74,500/- has been recovered at the instance of the accused/applicant and Rs.1,10,000/- from the different sources to whom the accused/applicant had given the same.

15. So also, one Suzuki Access 125 scooter bearing Reg. No.GA-04-N-3828 used by the accused/applicant to abscond after the alleged offence has been attached. The accused/applicant is the mastermind in this case wherein he was closely monitoring the movement of the complainant long before the commission of

this offence as the complainant used to reside in his neighborhood in the rented flat in Querim, Sattari, Goa.

16. The applicant/accused while committing the present crime has threatened the complainant with dire consequences to kill him and his family members and there are chances that he may execute his threats into reality, if released at this stage of investigation. The accused/applicant may also tamper with the evidence and it may not be possible to recover the remaining cash of Rs.2,95,000/- and gold weighing 68.26 gms, if released.

17. The crime committed by the accused/applicant is heinous in nature wherein they all have abducted the bank manager and looted public money from the bank. In this case, the statements of more witnesses are yet to be recorded and the charge sheet in this case is required to be filed before the Court within stipulated period.

18. **Arguments of the applicant:-** It is in the arguments of Ld. Advocate for the applicant that the investigation in the present crime is completed and all the accused at present are in Judicial Custody. According to him, the vehicle as well as the stolen gold



is also recovered from the investigation and so also, the stolen cash. According to him, an amount of around Rs.5,79,000/- cash is recovered alongwith the gold and all the accused have co-operated with the investigation. According to him, the Air gun is also attached under the panchanama from the co-accused Sahil Khan under Section 27 of the Indian Evidence Act. According to him, the Identification Parade is also conducted and all the accused are indentified and therefore, there is no need for the detention of the applicant in Judicial Custody.

19. It is further contended by the Ld. Advocate for the applicant that from the Say of the Investigating Officer it is seen that the bail is objected on account of more recovery to be done which cannot be a ground for rejection of the bail. According to him, the permanent address of the applicant is furnished and therefore, conditions could be imposed which the applicant is ready to abide by. According to him, after the Judicial Custody remand was granted there is no application made by the Investigating Officer for PC remand in order to interrogate the applicant and the entire incident is narrated by the informant will have to

be proved at the time of trial and therefore, prayed that the applicant be released on bail.

20. **Arguments of the Ld. P.P.:-** On the other hand, the Ld. P.P. while reading the complaint of the informant has contended that it was a planned offence wherein the informant who is a Branch Manager of the State Bank of India was abducted and a dacoity was committed. According to the Ld. P.P., all the accused observed the movements of the informant and were aware that the informant used to work in the Branch Officer till 8.00 p.m. to complete the pending work. According to the Ld. P.P., on the day of the incident while the informant was travelling he was attacked with a gun and with a knife by the applicant and his co-associates and were taken to different places in the Wagon-R car and was brought back to the bank to open the locker and the safe.

21. According to the Ld. P.P., although the applicant and his associates took the informant to the bank in order to open the locker, it could not be opened. They took him to a jungle and threatened to kill him and his family members. Further, the Ld. P.P. contended that the applicant alongwith the co-accused took the informant to the ATM and with the ATM card of the infor-

mant his money was withdrawn and this incident started at 8.00 p.m. in the night and till early morning the informant was under the threat of his life the next day.

22. According to the Ld. P.P., the informant during the entire incident from the night to the early morning the next day, the informant was in the custody of the applicant and the co-accused under the threat of his life. According to the Ld. P.P., the investigation is not completed and the recovery is yet to be done of the part cash. According to him, the nature and the gravity of the offence is to be considered at the time of granting the bail and that the applicant does not have a fixed residence in Goa and prayed that the bail be rejected.

23. I have gone through the records and the proceedings, the case papers produced by the Investigating Officer and have duly considered the arguments advanced by the Ld. P.P. for the State and Ld. Advocate for the applicant.

24. The applicant is charged for one of the offences punishable under Section 395 IPC which provides for dacoity and provides for the imprisonment for life or rigorous imprisonment for a pe-

riod of ten years. The applicant is also charged for the offence punishable under Section 397 IPC which provides for a robbery or dacoity which attempts to cause death or grievous hurt and provides for rigorous imprisonment for not less than seven years as a punishment. The applicant is also charged under Section 380 IPC for having committed theft in the bank of the cash and the gold alongwith Section 341, 364-A, 365, 506(ii) and 120-B of IPC and Section 3 and 27 of the Arms Act.

25. Looking at the offences as narrated above, there is no doubt that the offences allegedly committed by the applicant alongwith his co-accused are grave in nature.

26. The case papers reveal that on 14.09.2022 the complaint is alleged by the informant Shri Likhith Pachanekar, SBI Branch Manager although against the unknown persons that he was criminally restrained at Amona, Sankhalim and abducted on the point of gun and a knife while he was on the way to his residence at Caranzalem on his motorcycle. The complaint reveals that all the unknown accused persons threatened him with dire consequences to kill him and his family members and thereafter forcibly took him to various destinations at Sankhalim and later to

SBI, Querim Branch in one Wagon-R car bearing no.GA01-R-7724 brought by them and further on the point of gun compelled the informant to open the main shutter door of the bank to unlock their safe vault and thus, committed theft amounting to Rs.10,00,000/- approximately in different denominations along-with six pouches containing gold belonging to various customers.

27. The case papers reveal that the applicant was arrested in a joint operation carried out by the police officers and the Wagon-R car bearing no.GA01-R-7724 alongwith stolen gold ornaments weighing 1107 grams, cash of Rs.1,60,000/- and one knife was recovered at the instance of this applicant.

28. The case paper further reveals that the applicant was located at Old Goa and was placed under arrest at Bicholim Police Station and cash of Rs.1,74,500/- has been recovered from his personal search. Apart from the above cash, cash of Rs.93,000/- were handed over to the police by one Mr. Dipesh Majik and one Mr. Rupesh Bandekar which was paid to them by the applicant having borrowed the same from them.

29. The case papers reveal that on 16.09.2022 the statement of Shri Rupesh Bandekar was recorded wherein he surrendered an amount of Rs.17,000/- in the presence of the panchas. The case papers reveal that the applicant during interrogation reveal and disclosed about the gun and accordingly, the disclosure pancha-nama under Section 27 in the Evidence Act was recorded and one black colour Air gun pistol was attached from his instance from the cupboard at his residence. So also, on the disclosure of the applicant one Suzuki Access 125 bearing no.GA04-N-3828 was brought from Old Goa and attached at the instance of the applicant.

30. Case papers further reveal that the offences which were committed were planned offences by hatching a criminal conspiracy to commit the said offences.

31. The case papers further reveal that the Identification Parade was conducted on 06.10.2022 by the Executive Magistrate and Joint Mamlatdar of Bicholim Goa and a memorandum was prepared with respect to the Test Identification Parade. During this Identification Parade the informant has identified the applicant alongwith his other co-accused to be the same persons who

had kidnapped and abducted him at gun point and committed dacoity and robbery by hatching the criminal conspiracy.

32. From the above discussion, it is seen that the investigation is at a preliminary stage. Although the accused are in Judicial Custody, the offences committed by the applicant is grave in nature and there is every possibility that if they are released on bail at this stage, he will flee from justice, will not be available at the time of the trial and may also threaten the complainant and his family members. Therefore, at this stage, looking at the gravity of the offences and considering the manner in which the offences are committed which suggests a preplanned criminal conspiracy, the applicant is not entitled to be enlarged on bail.

33. In view of the above discussion, I am not inclined to enlarge the applicant on bail and therefore, the bail application stands rejected.

Pronounced in the open Court.

(Sharmila A. Patil)  
Addl. Sessions Judge,  
FTC, North Goa,  
M A P U S A.

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