

CRIMINAL MISCELLANEOUS APPLICATION NO. 144 OF 2002

Shri Anil Shashikant  
Garad, major of age,  
presently in Judicial  
Custody, Mapusa, through his  
father Shri Shashikant  
Garad, r/o Khorlim,  
Mapusa, Bardez, Goa.

... Applicant.

Versus

1. State, represented by  
Public Prosecutor,  
Panaji, Goa, and
2. Police Inspector,  
Mapusa Police Station,  
Mapusa, Goa.

... Respondents.

Shri J. P. Mulgaokar, advocate for the applicant.

Shri A. P. Lawande, Public Prosecutor for the State.

CORAM: P. V. KAKADE, J.

DATE: 31st October, 2002.

ORAL ORDER

Heard Shri J. P. Mulgaokar, learned counsel for  
the applicant and Shri A. P. Lawande, learned Public  
Prosecutor for the State.

2. This application is filed under Section 437  
of the Code of Criminal Procedure for bail. The applicant  
was arrested by the Mapusa Police on 8th May, 2002, on the  
allegation that he committed rape and was charged for the  
offence under Section 376 of the Indian Penal Code and  
since then he is in custody.

Two bail applications filed by the applicant were

rejected by the learned Sessions Judge by Orders dated 17th June, 2002 and 16th July, 2002, on the ground that the investigation in the case was not complete. Thereafter it appears from the record, that a third application for bail was filed after the chargesheet was filed and it was disposed of by Order dated 8th August, 2002, by the learned Sessions Judge, dismissed the same.

3. It is evident that the trial has commenced and it is delayed due to non-availability of the Chemical Analyser's report from the Forensic Laboratory at Hyderabad, Andhra Pradesh. As is the practice in this State, all incriminating articles seized in the course of investigation are sent to the Forensic Laboratory at Hyderabad as the State of Goa has no such facility. In my considered view, the delay caused for want of Chemical Analyser's report from Hyderabad would not be a sufficient ground to enlarge the accused on bail, when the trial has commenced, specially when there is no subsequent event or new development to justify the plea for bail after its rejection by Order dated 8th August, 2002, after the chargesheet was filed by the learned Sessions Judge. The interests of the applicant, would be protected if the trial is expedited with certain directions by this Court.

4. In view of this position, the application is rejected as there are no sufficient grounds made out to enlarge the accused on bail, with a direction that the

learned trial Judge shall expedite the process of the trial. The State is also directed to depute a special messenger to proceed to Hyderabad within three weeks from the date of receipt of the copy of this Order and obtain the necessary Chemical Analyser's certificates in the said trial, so as to expedite the trial and its disposal. On receipt of the Chemical Analyser's certificates the trial shall commence forthwith.

The application stand dismissed with these observations.

P. V. KAKADE, J.

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