

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 3209 OF 2015

Allaudin Azam Khan

.... **APPLICANT**

V E R S U S

The State of Maharashtra & Ors.

.... **RESPONDENTS**

.....

Mr. Swapnil Patunkar h/f J.P.Legal Associates

Mr. A.S.Shinde, A.P.P. for R.No.1 – State.

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CORAM : V.M.DESHPANDE, J.

DATE : 9th JULY, 2015

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PER COURT :

1. Heard Mr. Swapnil Patunkar, learned counsel holding for J.P.Legal Associates in extenso.

2. Applicant was arrested on 25/03/2009 in connection with Crime No. 83/2009 registered with Nagar Taluka police station, District Ahmednagar for the offences punishable u/s 395,341 of the Indian Penal Code.

Applicant was released on bail by the learned Additional Sessions Judge on 12/08/2009 in Criminal Misc. Application No. 952/2009.

The case was committed to the Court of Sessions as the offences were exclusively triable by the Court of Sessions. After its committal, it was given Sessions Case No.

179/2009 and it is pending on the file of the Additional Sessions Judge, Ahmednagar.

3. Along with present applicant, there are other three accused persons. Present applicant is accused No. 3.

It was noticed by the learned Additional Sessions Judge in-charge of the Sessions case, that accused Nos. 1 and 2 are attending the Court regularly and present applicant and accused No. 4 were not attending the case and they absconded themselves since 2010.

4. In order to secure the presence of the present applicant, non bailable warrants were issued. However, the applicant successfully avoided its execution.

5. Ultimately, the law enforcing agency could execute the non bailable warrant issued by the learned trial Court on 04/04/2015 and the present applicant was brought before the learned Sessions Judge in execution of the said non bailable warrant.

6. Applicant thereafter moved an application for bail before the learned Additional Sessions Judge in Sessions Case No. 179/2009, however the said application is rejected.

7. Learned counsel for the applicant submitted that a chance be given to the present applicant. He submitted that earlier the applicant was released on bail and now the condition can be imposed upon the present applicant.

8. Applicant is facing serious charges for the offences punishable u/s 395,341 of the Indian Penal Code. There is no dispute on the part of the applicant that he was not attending the Court since 2010. In view of the non attendance, the Sessions trial which is pending from 2010 was unable to proceed. Continuous absence without there being any excuse which can be admitted as valid excuse, the applicant remained absent. That shows that he has scant respect towards the course of law. Applicant has jumped the bail. In that view of the matter, present case is not a case wherein the Court should exercise discretion in favour of such person.

One of the submissions of the learned counsel for the applicant is that accused No. 4 is also absconding. Applicant can not take advantage of such situation since it is for the learned Sessions Judge to take appropriate step for separating the trial of the accused, who are before the Court.

9. With these observations, present Criminal Application is dismissed.

[V.M.DESHPANDE, J.]