

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

CRIMINAL APPLICATION NO. 6344 OF 2017

Krushna Raju Khade

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. N.R. Bhavar, Advocate for applicant.

Mr. K.N. Lokhande, A.P.P. for respondent - State.
....

CORAM : V.L. ACHLIYA, J.

DATED : 28th NOVEMBER, 2017

ORDER :

1. The applicant has moved this application seeking release on bail in connection with offence u/s 395 and 402 of I.P.C. and u/s 4 r/w 25 of Indian Arms Act registered vide C.R. No. 241 of 2012 with Kopergaon Police Station.

2. Heard the learned Counsel for the applicant and the learned A.P.P. for State. Perused the report dated 24th November, 2017 received from District Judge-1 and Additional Sessions Judge, Kopergaon.

3. In short, it is the contention of the learned Counsel for the applicant that the applicant was released on bail. However he could not remain present on dates fixed by Court as he was lying arrested in another crime. Due to his

absence, the non-bailable warrant came to be issued against him. In another case he was granted bail on 17th May, 2017. Immediately after release on bail he was arrested in execution of non-bailable warrant issued in Sessions Case No. 33 of 2015. He moved application seeking to release on bail. However, learned Additional Sessions Judge has rejected the application. In short, it is the contention of the applicant that his absence was not deliberate. He has old aged mother, father and one sister and entire family is dependent on him. He submits that the applicant is ready and willing to abide by any condition that may be imposed in the event of his release on bail.

4. On the other hand, the learned A.P.P. opposed the application with contentions that if the applicant is released on bail, there is every likelihood that he may abscond.

5. In order to ascertain the time required to complete the trial against the application, the District Judge-1 and Additional Sessions Judge, Kopergaon was requested to submit status report of the case and also specify the time required to complete the trial. As per the report, there are five accuse in the case. One of the accuse i.e. accuse no.3 – Dilip Ratan Khatri @ Suryavanshi is absent. In spite of taking efforts, his presence could not be secured. Non-bailable warrant issued against him is returned unserved. It is reported that due

to the absence of accuse no.3 - Dilip Ratan Khatri @ Suryavanshi, trial could not be commenced. It is further informed that it will take at least six months to secure the presence of absconding accuse no.3 and to proceed with the trial.

6. On due consideration of the submissions advanced and taken into consideration the fact that the applicant could not attend the proceeding as he was lying arrested in another case, request of the applicant deserves to be considered. In view of report received that it may not be possible for Sessions Court to proceed with the case unless the case of accuse no.3 is secured, it is not desirable to keep the applicant behind the bars. Hence the following order :-

ORDER

(i) Application is allowed.

(ii) The applicant be released on bail in Sessions Case No. 33 of 2015 pending on the file of Additional Sessions Judge, Kopergaon on furnishing bail in the sum of Rs.50,000/- with one or two surety in the like amount on following conditions :-

(a) The applicant shall attend Kopergaon Police Station on every Sunday in between 10 a.m. to 11 a.m. till conclusion of trial.

- (b) The applicant shall furnish names and addresses of his three close relatives with their contact numbers.
- (c) The applicant shall not indulge into an offence of similar in nature during the pendency of trial.
- (iii) In the event of breach of any of the condition, bail granted to the applicant liable to be canceled.
- (iv) Application is disposed of in above terms.

(V. L. ACHLIYA, J.)

SSD