

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.64 OF 2021

Samadhan Prakash Koli

... **Applicant**

Versus

The State of Maharashtra

... **Respondent**

.....
Mr. Aditya N. Ayachit h/f Mr. K. C. Sant, Advocate for the applicant.
Mr. S. Y. Mahajan, APP for respondent – State.
.....

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 26th February, 2021

ORDER :-

. Present applicant has been arrested in connection with Crime No.95 of 2020 dated 26.03.2020 registered with Chopada City Police Station, District Jalgaon for the offences punishable under Sections 307, 143, 144, 147, 149, 337, 323, 504, 506 of Indian Penal Code and Section 135 of the Bombay Police Act. He has filed present application for bail under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. A. N. Ayachit holding for learned Advocate Mr. K. C. Sant for the applicant and learned APP Mr. S. Y. Mahajan for the respondent – State. In order to cut short it can be said that both of them have made submissions in support of their respective

contentions.

3. It will not be out of place to mention here that on the bail application itself it is stated that the applicant is coming before this Court third time. Though it is stated that the applicant is invoking the Criminal Appellate Jurisdiction of this Court, there is no such provision. Even if the applicant intends to say that the learned Additional Sessions Judge, Jalgaon had released the applicant on temporary bail by order dated 19.10.2020 in Criminal Bail Application No.286 of 2020 for a period of 45 days when it was pointed out that he was suffering from Fistula in Ano and was advised to undergo surgery, but then he states that during the said period of 45 days, he could not undergo the operation. He is now giving only reasons just to get extension of the said period and it appears that thereafter, the learned Additional Sessions Judge refused to extend the said temporary bail. It will not be out of place to mention here that prior to that when he was before this Court by filing Bail Application No.962 of 2020 under Section 439 of the Code of Criminal Procedure, after the submissions made for a while by his Advocate, on instructions, the learned Advocate for the applicant had sought leave to withdraw the application to file application for temporary bail before the Court below. Prior to that his Bail Application No.430 of 2020 under Section 439 of the Code of Criminal Procedure

was rejected by this Court on 14.07.2020, which is a detailed order. Suffice it to say that when at that time there could have been full fledged arguments on his bail application, he has sought liberty to withdraw the application. Therefore, there is room to believe that this Court was not inclined to grant any relief to the present applicant and, therefore, the way out was found and liberty was sought to apply for temporary bail in terms of guidelines issued by the High Power Committee. Further, when the temporary bail was granted for a particular cause, yet the applicant has not utilized it. His temporary bail application was granted on 19.10.2020, but it appears that he had gone to doctor at the fag end of those 45 days. He has produced photocopy of the medical certificate issued by Bhamare Surgical and Maternity Home, which shows that he was in-patient and was treated as an O.P.D. patient from 13.02.2021 and was discharged on 14.02.2021 and thereafter, on 20.02.2021, he has then approached Dr. Manoj Salunkhe. Why he had not approached the same medical practitioner, who had issued earlier medical certificate is not clarified. Further, it will not be out of place to mention here that the learned Additional Sessions Judge, Amalner then extended the period of temporary bail by passing order on 15.12.2020 for further 45 days, but then had rejected the regular bail. It was obvious on the count that this Court had earlier rejected his bail

application on 14.07.2020. That means, the present applicant has, in fact, enjoyed the temporary bail for 90 days, yet, he has not undergone the requisite operation. There appears to be lethargy on his part. He cannot be allowed to take advantage of his own wrong and, therefore, when on earlier two occasions, this Court has refused to grant relief to the applicant under Section 439 of the Code of Criminal Procedure, his present application is liable to be rejected. Accordingly, it is rejected.

[SMT. VIBHA KANKANWADI, J.]

scm