

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

928 BAIL APPLICATION NO.346 OF 2021

**SHAIKH MUSHTAQ SHAIKH MUNAF
VERSUS
THE STATE OF MAHARASHTRA**

Shri. Chaitnya Deshpande, Advocate for the applicant
Shri. V. M. Kagne, APP for the respondent/State

**CORAM : M. G. SEWLIKAR, J.
DATED : 18th NOVEMBER, 2021**

PER COURT :-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No. 359 of 2019 under Sections 419, 420, 465, 467, 468, 471, 120(B) of the Indian Penal Code registered with Kranti Chowk Police Station, District Aurangabad.

2. Prosecution case in short is that the informant who is an API, Crime Branch, Aurangabad received a tip off that the applicant is furnishing bogus sureties. Therefore, police laid the trap and arrested the applicant from the premises in front of the District Court, Aurangabad. On taking search applicant was found possessing Aadhar card of

Sagina Munaf Shaikh, Shabana Shaikh Habib Khan, Samran Khan Mustak Ali Khan and others. He was also found possessing 7x12 extracts of various properties and also solvency certificate. Accordingly, offence was registered applicant was arrested. This incident took place on 6th November, 2019. On the same day applicant came to be arrested. Upon the FIR lodged by API, Crime Branch, Aurangabad, offence as aforesaid came to be registered against the applicant.

3. Heard Shri. Deshpande, learned counsel for the applicant and Shri. Kagne, learned APP for the respondent/State.

4. Learned counsel Shri. Deshpande submits that all the offences are punishable with imprisonment for 7 years or less except the offence under Section 467 of the Indian Penal Code. He submits that offence under Section 468 of the Indian Penal Code is not attracted as Section 468 of the IPC is attracted only when there is forgery in valuable security. In the case at hand no valuable security is involved.

He further submits that applicant is behind bars since the date of his arrest. In this view of the matter, applicant is entitled to be released on bail.

5. Learned APP Shri. Kagne submits that the applicant is habituated to furnishing bogus sureties. Offences are registered against him not only in Aurangabad Police Stations but also in other districts. He submits that if applicant is released on bail, he will commit similar offences again.

6. It is not in dispute that applicant has been released on bail in other offences. Applicant is behind bars for more than two years. Whether Section 467 of the Indian Penal Code will be applicable or not will be decided only during trial. Punishment is one of the criteria for releasing the accused on bail. Entire evidence is documentary in nature. Nothing is placed on record to show that applicant will not be available for trial. In this view of the matter, following order is passed.

ORDER

1. Application is allowed.
2. Applicant be released on bail on his furnishing PR bond of Rs. 75,000/- (Rupees Seventy Five Thousand only) with one solvent surety in the like amount in connection with CR No. 359 of 2019 under Sections 419, 420, 465, 467, 468, 471, 120(B) of the Indian Penal Code registered with Kranti Chowk Police Station, Dist. Aurangabad and on condition that he shall report to the police station twice a week i.e. on every Monday and Friday till the conclusion of the trial.
3. Application is disposed of.
4. It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

[M. G. SEWLIKAR, J.]

ssp