

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.307 OF 2022

NARAYAN S/O BHAUSAHEB KHOSE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. D. R. Markad, Advocate for applicant.
Mr. S. B. Narwade, APP for respondent No.1 – State.
Ms. S. R. Awad, Advocate for respondent No.2 (Appointed).

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CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 26.04.2022

ORDER :-

1. Applicant has been arrested on 25.11.2018 in connection with Crime No.384 of 2018 registered with Parner Police Station, Dist. Ahmednagar for the offences punishable under Sections 376(a)(b), 376(2)(f)(i)(n) of Indian Penal Code and under Sections 3, 4, 42 of Protection of Children from Sexual Offences Act. He has filed present application under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. D. R. Markad for the applicant, learned APP Mr. N. B. Narwade for the respondent No.1 – State and learned Advocate Ms. S. R. Awad for respondent No.2 (appointed).

3. Learned Advocate appearing for the applicant submits that the charge-sheet in this matter has already been filed on 05.01.2019. The applicant was released on bail earlier, however, it is stated that he was

not remaining present and, therefore, Non Bailable Warrant came to be issued against him. Pending the execution of Non Bailable Warrant, the applicant surrendered before the Court and then he was taken in Magisterial custody. He again filed the application for interim bail on medical ground for a period of one month. It was granted, but he remained absent before the Court. According to the applicant, he is suffering from diseases like Asthama, Piles and Kidney stone etc. Even on the basis of merits of the case submissions have been made and it is further submitted that when there is no merit in the case, the applicant need not be allowed to languish in jail for years together. In fact, the sister of the mother of victim is also residing in the same locality, where the applicant is residing. There is dispute between the said aunt of the victim and the present applicant on account of residence. It shows the false implication at the behest of the aunt. Applicant is ready to abide by the terms of the bail.

4. The application has been strongly opposed by learned Advocate Mr. S. R. Awad, who is appointed to represent the cause of respondent No.2 and learned APP by saying that the applicant has intentionally remained absent. In fact, even in the jail he was given proper medical treatment, yet he has sought bail, but still then remained absent. Now, he does not deserve any sympathy.

5. At the outset, it is to be noted that when once the bail was granted, the applicant was supposed to abide by all the terms of the bail. He could not have afforded to remain absent. If he had any kind of problem, he ought to have filed application of exemption on a particular date. But after he had surrendered in view of the Nonailable Warrant issued against him, later on also he ought to have remained present when his temporary bail was allowed on the medical ground. It was allowed for a period of one month only. Thereafter, he ought to have surrendered before the jail authorities. He was granted temporary bail in order to have his treatment at a hospital of his choice, otherwise from the record that has been produced by the learned APP, it can be seen that medical treatment was given to the applicant from the jail also. Therefore, when again for no reason at all he has jumped bail and has not abided by the terms of the bail, he does not deserve any sympathy. The application stands rejected.

6. Fees of learned Advocate, who is appointed to represent the cause of respondent No.2 is quantified at Rs.5,000/- to be paid by High Court Legal Services Sub Committee, Aurangabad.

[SMT. VIBHA KANKANWADI, J.]

scm