

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.336 OF 2022

RAM S/O DHONDIRAM PAWAR
AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

.....
Advocate for Applicants : Mr. Ajay Shinde
APP for Respondent-State : Mr. V. S. Badakh
.....

CORAM : SMT.VIBHA KANKANWADI, J.
DATE : 19-04-2022

ORDER :

1. The applicants came to be arrested on 03-11-2008 in connection with Crime No.220 of 2008, registered at Omerga police Station, District Osmanabad, for the offence punishable under Section 323, 504, 353 r.w.34 of IPC.
2. It appears that the applicants were released on bail, however, since long they were not remained present in connection with the proceedings of the case, and therefore, non-bailable warrant was issued against them. Ultimately accused Apparao Baliram Chavan came to be arrested on 20-08-2021 and accused Ram Dhondiram Pawar surrendered himself before the Court on that day. They were taken in magisterial custody and were sent to jail and now they have

filed the present application under Section 439 of Cr.P.C. after their application was rejected by the learned Additional Sessions Judge, Omerga on 27-01-2022.

3. Heard learned Advocate for the applicants Mr. Ajay Shinde and learned APP Mr. V. S. Badakh. In order to cut short, it is stated that both of them have made submissions in support of their respective contentions.

4. The documents on record filed by the present applicants as well as police papers show that both the accused were released on regular bail, but thereafter they remained absent. According to the accused/applicant No.1, he went to Hyderabad in search of livelihood because of his poor economic condition and applicant No.2 says that he went to Pune for the same purpose. Both of them are saying that their mothers are ill and the mothers dependent upon them, therefore, they be released.

5. At the outset, it has not been made clear by the applicants that whether they had informed the change of address to the concerned Court who released them on bail. The bail came to be granted to them since it was shown that they have a permanent

place of abode. However, if they are staying away from the said address, they must inform that fact to the Court as well as their own sureties. Another fact to be noted is that after the non-bailable warrant was issued in pursuant to the order passed by the Trial Court on 15-06-2013 they did not remain present, and therefore, proclamation seems to have been issued against them. Therefore, when there is clear evidence about their act of absconding and avoiding to attend the Court, they do not deserve any discretionary relief. In view of the decision in *Lavesh Vs. State (NCT of Delhi)*, reported in 2012 (8) SCC 730, they do not deserve to be released on bail. Hence, application stands rejected.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.