

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

**1 CRIMINAL APPLICATION NO.2246 OF 2022
IN APEAL/456/2018 WITH APEAL/424/2018 WITH APEAL/432/2018
WITH APEAL/456/2018**

**MAHADEV S/O. GAHININATH BAHIR
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Balraj Prakash Pande
APP for respondent/State : Mr. M. M. Nerlikar
...

**CORAM : SMT. VIBHA KANKANWADI
AND
RAJESH S. PATIL, JJ.**

DATE : OCTOBER 06, 2022

PER COURT : -

1. The present application has been filed for temporary bail as the applicant/appellant intends to execute a registered sale deed of his land as he and his family members are suffering from financial crisis and for that purpose he would remain present before the Sub-Registrar, Jamkhed, Dist. Ahmednagar.

2. Heard both the sides.

3. It will not be out of place to mention here that initially this Court had tried to get the information as to whether the execution of the sale deed is possible before Sub-Registrar, Jamkhed, Dist. Ahmednagar, from Yerwada Jail, Pune through video conferencing and in that respect the learned APP was directed to take information. On the last occasion, he tendered a communication which was done by the Sub-Registrar with the Superintendent of Jail where the applicant is now lodged and it was
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informed that it is not possible to have sale deed registered through video conferencing.

4. The appellant/applicant has been convicted in Sessions Case No. 265 of 2014 for the offences punishable under Sections 302, 452, 325, 324, 323 r/w 149, 143, 147 and 148 of the Indian Penal Code and the maximum sentence is supposed to undergo is imprisonment for life. Further, it is to be noted that the application for suspension of sentence filed by the applicant earlier has been rejected by this Court. Under such circumstances, there was no question of any subsequent application on that count but now the applicant has come with a case that since his family is suffering from financial crisis, he wants to execute the sale deed of one of his lands so that the funds are generated for his family. An agreement to sale is stated to have been executed on his behalf by his son with an intending purchaser on 23.05.2022. The consideration amount agreed is Rs. 6.00 lakhs and out of which earnest amount has been taken of Rs. 50,000/-. It is then stated that at the time of sale deed they would receive the rest of the amount.

5. This Court is definitely required to take humanitarian approach when the entire family is stated to be under financial crisis. It is also to be noted that this Court has considered the fact that the applicant is having a son but he is also an agriculturist as well as agriculture labour. Even after selling this piece of land, the 7/12 extract which has been placed on record so also other 7/12 extracts showing that there are still two more pieces of land available with the applicant and his family. Though in this application the applicant has prayed that he should be allowed to execute the registered sale deed in police protection, definitely the costs of police protection would be very high and ultimately very meager amount would be left with the family of the

applicant. In view of the same, as the applicant had prayed for temporary bail for a particular cause, it can be considered and in that respect learned advocate for the applicant is submitting that the sale deed can be executed on 11th or 12th of October, 2022. The interest of the prosecution can also be protected by placing the applicant under guard throughout the period for which he would be released on bail. Therefore, taking into consideration all these aspects, following order is passed.

ORDER

- [i] The application is allowed.
- [ii] Applicant be released on his furnishing P. R. of Rs.30,000/- (Rupees Thirty Thousand) with two sureties of Rs. 15,000/- (Rupees Fifteen Thousand) each, and the period of bail would be from 10.10.2022 till 13.10.2022. The applicant should report back to the Jail by 05:00 p.m. on 13.10.2022. Initially, after the release of the applicant he should report to Jamkhed Police Station on 10.10.2022 and then Police Inspector of Jamkhed Police Station to put the applicant under guard i.e. he should provide a guard/constable who would remain with the applicant till he reports back to the Jail. Applicant should finish the work of executing the sale deed within the aforesaid period and at any point this period will not be extended. Necessary charges be deposited by the applicant before 10th October, 2022.
- [iii] Hamdast allowed.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE