

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

Criminal Application (BA) No. 474 of 2022

Bhima @ Md. Aamin Aliraja Shaha

Versus

The State of Maharashtra, through Police Station Officer, P.S.Gittikhadan,
Dist. Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri G.B.Hemke, Advocate for the applicant.

Ms Mrunal Barbde, APP for the State / Non-applicant

Shri S.K.Paunekar, Advocate for the Non-applicant no.2.

CORAM : ANIL S. KILOR, J.

DATED : 4th JULY, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 44 of 2017 registered with Police Station Gittikhadan, Dist. Nagpur for the offence punishable under Sections 363, 376(1), 506, 344 read with Section 34 of Indian Penal Code.

2. Learned counsel for the applicant submits that he was released on bail and subsequently, because he did not attend the trial, the trial Court issued non-bailable warrant against the applicant and on his

production before the trial Court, the application for grant of bail was moved, which came to be rejected. He therefore, submits that the applicant was already released on bail however, because of default, the bail was not granted to him.

3. He further submits that he undertakes to attend the trial on each and every date henceforth. He further submits that on the basis of undertaking, he may be released on bail. Accordingly, he prays for grant of bail.

4. On the other hand, learned Additional Public Prosecutor has opposed the application and pointed out the conduct of the applicant that he was continuously absent for three years, which is one of the reasons the trial could not be concluded. Thus, it is submitted that there is every possibility that in future also he will not be available for trial, if he is released on bail.

5. I have perused the application and documents filed alongwith the application and the reply filed by the State.

6. It is clear from the record that after the applicant was released on bail, he did not attend the trial for three years and after he was brought by arresting, he applied for grant of bail. Thus, considering the conduct

of the applicant, there is every possibility that applicant may not be available for trial, if he released on bail.

7. In that view of the matter, I do not find any error committed by the trial Court while rejecting the application for grant of bail to the applicant.

8. In the circumstances, I am of the opinion that even if any condition is imposed as suggested by the learned counsel for the applicant, there is every possibility that the applicant may not be available for trial. Accordingly, I pass the following order.

i. Criminal application is rejected.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

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