

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

Criminal Application (BA) No. 662 of 2022

Bhaiyya @ Sameer S/o Kushalrao Gaikwad

Versus

State of Maharashtra through Police Station Officer, Hinganghat Police
Station, District Wardha

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

Court's or Judge's Order

Shri P.H.Khobragade, Advocate for the applicant.

Ms Shamshi Haider, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 13th JULY, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 502 of 2021 registered with Police Station Hinganghat Dist. Wardha for the offence punishable under Section 307, 326, 324, 506 read with Section 34 of the Indian Penal Code and Sections 4 and 25 of Arms Act.

2. Learned counsel for the applicant states that he had withdrawn the first application on the ground that the Court was not inclined to grant bail.

3. He further points out from the order dated 16th November, 2021, passed on first application

whereby, this Court has permitted the applicant to apply a fresh in case there is no significant progress in trial in the next six months. It is submitted that even after a lapse of about eight months, the charge is not yet framed in the Sessions Case, hence the present application came to be filed.

4. He further points out that the applicant is in jail since 9th June, 2021 i.e. for more than one year. He further argues that the custody of the applicant is no further required, in view of completion of investigation. Accordingly, he prays for grant of bail.

5. On the other hand, learned Additional Public Prosecutor strongly opposed the application and she submits that there is ample material available on record to connect the applicant with the alleged offence. Accordingly, she prays for rejection of the application.

6. I have perused the chargesheet, the application and the reply filed by the State.

7. This Court vide order dated 16th November, 2021 permitted the applicant to withdraw his first application for grant of bail with liberty to apply a fresh in case there is no progress in trial. The case status filed by the applicant alongwith application shows that even the charge is not yet framed till date.

8. In this case the chargesheet has already been filed. As such, the custody of the applicant is not required.

9. As far as the merit is concerned, considering the allegations made in the First Information Report, I am of the opinion that as there is no possibility that trial will be commenced or it will be concluded in near future. There is no point to keep the applicant for uncertain period particularly when his custody is no more required.

10. As far as the criminal antecedents are concerned, the offence i.e. Crime No. 383 of 2016 was committed in the year 2016 and it was registered under Section 302, 201 read with Section 34 of Indian Penal Code. Hence, some stringent condition can be imposed against the applicant. In the circumstances, I pass the following order:

- i. Criminal application is allowed;
- ii. It is directed that the applicant shall be released on bail in Crime No.502 of 2021 registered with Police Station Hinganghat Dist. Wardha for the offence punishable under Section 307, 326, 324, 506 read with Section 34 of the Indian Penal Code and Section 4 and

25 of Arms Act, on furnishing P.R.Bond of Rs.25,000/- with one solvent surety in the like amount;

iii. The applicant shall not enter territorial jurisdiction of Hinganghat Police Station, Wardha, till culmination of trial except for trial;

iv. The applicant shall provide his address and the name of police station which he would attend the concerned police station on 1st day and 16th day of every month between 10.00 am to 12.00 noon till the conclusion of the trial;

v. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

vi. State is at liberty to apply for cancellation of bail in case the applicant commits similar offence.

[ANIL S. KILOR, J.]

SACHINDANAND
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