

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.203 OF 2023

Kishor Bhaskarrao Lakkas

Age : 39 Yrs, Occu : Private Job,

R/o. N-7, House No. F-28/7, Ayodhya Nagar,

Cidco, Aurangabad

Tq. & Dist. Aurangabad

.. Petitioner

Versus

1. Dhamapal Dadarao Pradhan

Age : Major, Occu : Nil,

2. Vijay S/o. Sudhakar Jadhav

Age : Major, Occu : Nil,

3. Sukhdev S/o. Kacharu Salve

Age : Major, Occu : Nil,

All R/o. N-7, Ayodhya Nagar,

Cidco, Aurangabad

Tq. & dist. Aurangabad

4. Sangita D/o. Sudhakar Jadhav

Age : Major, Occu : Nil,

R/o. Shivneri Colony, Cidco,

Aurangabad, Tq. & Dist. Aurangabad.

5. The State of Maharashtra

Through The Police Inspector,

Cidco Police Station, Aurangabad

.. Respondents

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Advocate for Petitioner : Mr. Prasad Devidas Jarare

APP for Respondent – State : Mr. G.O. Wattamwar

Advocate for Respondents No.1 to 4 : Mr. Rahul O. Awasarmol

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CORAM : R. M. JOSHI, J.

DATE : AUGUST 22, 2023

PER COURT :

. This petition takes exception to the order dated 25.01.2023 passed by the learned Additional Sessions Judge, Aurangabad in Criminal Misc. Application No.379 of 2022 challenging the order dated 23.11.2022 passed by the learned Judicial Magistrate First Class, Aurangabad granting bail to respondents no.1 to 4 in Cr. No. 539 of 2022.

2. Learned counsel for the petitioner assailed the order passed by the learned Magistrate only on the ground that though the offences are registered against the respondents are non-bailable, however while granting bail the learned Magistrate has not recorded any reason whatsoever. He drew attention of this Court to the order dated 23.11.2022, which reads thus:

‘Accused no.1 to 4 are released on bail on their furnishing P.B. & S.B. of Rs.7500/- each.’

3. To support his submission that recording of reasons for grant of bail is absolutely essential, he placed reliance on the judgment of the Hon’ble Apex Court in the case of **Deepak Yadav vs.**

State of Uttar Pradesh & Anr, (2022) 8 SCC 559.

4. Learned counsel for the respondents opposed the said contention by submitting that appropriate conditions are imposed by the learned Magistrate while granting bail to the respondents. To support his submissions that the bail once granted cannot be interfered with unless the extreme care is exercised, he relied upon the judgment of the Hon'ble Apex Court in the case of **Bhuri Bai vs. State of Madhya Pradesh, 2022 SCC OnLine SC 1779.**

5. At the outset, it needs to be recorded that the petitioner is not taking exception to the order of grant of bail in connection with Cr.No. 539 of 2022 on the ground of non compliance of the conditions of bail etc. The basic challenge to this order is non application of mind and failure on the part of the learned JMFC to record any reason whatsoever for grant of the bail to the accused who are charged for the offences which are non bailable in nature.

6. The Hon'ble Apex Court in the case of **Deepak (supra)** has candidately underlined the importance of assigning reasons for grant of or denial of bail. The Hon'ble Apex Court observed that:

“There is *prima facie* need to indicate reasons particularly in cases of grant of bail or denial of bail where the accused is charged with a serious offence. The sound reasoning in a particular case is a reassurance that the discretion has been exercised by the decision maker after considering all the relevant grounds and by disregarding the extraneous considerations.”

7. The order passed by the learned Judicial Magistrate First Class does not fulfill these requirements as expected by law as well as by the judgment of the Hon’ble Apex Court. For want of recording of any reason for grant of bail to the respondents for non-bailable offences, such order cannot sustain and it deserves interference. Consequently order passed by Addl. Sessions Judge in revision also deserves to be set aside.

8. Learned Judicial Magistrate First Class, Aurangabad is directed to decide the application of respondents no.1 to 4 in Cr. No.539 of 2022 for bail afresh within a period of two weeks, in accordance with law. Liberty of respondents no.1 to 4 is protected for the period of two weeks from today.

9. Petition stands disposed of in the aforesaid terms.

[R. M. JOSHI]
JUDGE

GGP