

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

BAIL APPLICATION NO.1023 OF 2023

RAHUL DEVIDAS KALE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Sonawane Sunita G.
APP for Respondent: Mr. S. B. Narwade
...

CORAM : S. G. MEHARE, J.

DATE : 07.07.2023

PER COURT :

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.

2. This is a successive bail application of the applicant for bail. His first application was rejected on 7th September 2021, and his last application was rejected on 22nd September 2022. The learned counsel for the applicant tried to point out the conduct of the first informant Pratik Chattar (P.W. No.1), that he left the Court without permission of the Court when he was undergoing cross-examination. She would also argue that witnesses come to the Court premises but do not appear before the Court to lead the evidence. Since the Court had issued the warrants against the witnesses, Pratik Chattar(P.W. No.1) filed an

application before the learned Principal District & Sessions Judge Ahmednagar under Section 408 of the Code of Criminal Procedure for transferring the case to another Court. Since that application is pending, further progress of the trial has been stalled. She would categorically state that there was no stay to the proceeding before the learned Additional Sessions Judge at Sangamner. The applicant has been languishing in jail since the year 2022. Due to the conduct of the witnesses, and the first informant, the applicant is unnecessarily languishing in jail; therefore, he may be granted bail.

3. Considering the submission of the learned counsel for the applicant, it appears that the trial Court was sincerely conducting the trial, and the prosecution was also supporting the Court. However, it seems to be not good conduct of Pratik Chattar(P.W. No.1), and other witnesses did not respect the Court summons. The conduct of Pratik (P.W No.1) seems that when the Court exercised the powers to secure the presence of the witnesses by issuing witness warrants, he expressed the apprehension of the injustice at the hands of the judicial officer and filed a transfer petition.

4. No one is bigger than the law. Law is meant to maintain law and order. The witnesses acquainted with the facts of the case are

bound to appear in Court and state the facts they know about the incident. The learned Additional Sessions Judge, Sangamner, appears to have exercised its power correctly as the situation demanded. No individual can put the law and Court on their toe. The conduct of Pratik (PW. No.1) also appears non-cooperative with the Court and expedites the trial of the accused. Since earlier bail applications of the applicant on similar grounds were rejected, he may not be granted bail, but the learned Additional Sessions Judge Sangamner must be encouraged to continue the trial without fear and favour. Hence the following order:-

ORDER

- (i) The application stands dismissed.
- (ii) The learned Additional Sessions Judge Sangamner is directed to continue with the trial unless stayed by the higher Courts without fear and favour. He shall exercise the powers under the law to produce the witnesses. If the witnesses do not support, they shall be taken into custody until their evidence is recorded.

(S. G. MEHARE)
JUDGE