

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

926 BAIL APPLICATION NO.1450 OF 2023

SOMINATH SHRIRAM CHANDEL
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. D.K. Dagadkhair
APP for Respondent : Mr. K.S. Patil

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CORAM : S. G. CHAPALGAONKAR, J.
Dated : September 01, 2023.

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PER COURT :-

1. The applicant seeks regular bail in connection with crime no.I-82 of 2013 dated 28.2.2013 registered with police station Mukundwadi, Aurangabad for the offence p/u/s 366(c), 375(5), 376 of Indian Penal Code, now Special Case No.289 of 2022 registered under POCSO Act pending before the Extra Joint District and Additional Sessions Judge, at Aurangabad.

2. Learned advocate appearing for the applicant would submit that the applicant was released on bail in the aforesaid crime vide order dated 7.9.2020. Thereafter, he was attending the Sessions Court on every date. Meanwhile, he remained absent. His bail bond was cancelled. However, by order of this Court dated 7.9.2020 he was again released on bail. It is submitted that due to jaundice, the applicant remained absent on 10.4.2023. Thereafter, on 8.6.2023 noting absence of the applicant N.B.W. was issued. On 26.6.2023

notice of surety received unserved. The applicant suo-moto appeared before the Sessions Court on 5.8.2023 and submitted an application for cancellation of N.B.W., however, the same is rejected. Learned advocate appearing for the applicant would submit that absence of the applicant was unintentional. He was attending the Court continuously without default since earlier order passed by this court. Therefore, he submits that the applicant be released on bail.

3. Learned A.P.P. strongly opposes the prayer for grant of bail. He submits that the case is pending since the year 2013. On earlier default of the applicant, Sessions Court was required to cancel his bail. However, by order dated 7.9.2020 passed by this Court, he was further released on bail with specific conditions. Noting default of the applicant, NBW was issued. He would submit that because of the non-co-operation of the applicant, the trial is delayed.

4. Having considered the submissions advanced, it appears that case is pending since 2013. However, on perusal of Roznama, it can be observed that after the order passed by this Court on 7.9.2020, the applicant and his advocate were continuously present on each and every date. Default on the part of the applicant can be seen first time on 10.4.2023 and 8.6.2023 when NBW is issued. Thereafter, the applicant sou-motto appeared before the Sessions Court and made application for cancellation of N.B.W., which is rejected and the applicant is taken in M.C.R.

5. Considering the conduct of the applicant that he was present before the Court continuously from 2020 and he defaulted first time on 10.4.2023, it would not be appropriate to continue him behind bar, however, the applicant can be further enlarged on bail subject to certain conditions. Hence, the following order.

ORDER

- I. Criminal Bail Application is hereby allowed.
- II. The applicant - SOMINATH SHRIRAM CHANDEL be released on bail in connection with crime no.I-82 of 2013 dated 28.2.2013 registered with police station Mukundwadi, Aurangabad for the offence p/u/s 366(c), 375(5), 376 of Indian Penal Code, now Special Case No.289 of 2022 registered under POCSO Act pending before the Extra Joint District and Additional Sessions Judge, at Aurangabad on furnishing P.B. and S.B. of Rs.50,000/- (Rs.Fifty Thousand) on the following conditions :-
 - a] The applicant shall pay fine of Rs.5,000/- (Rs. Five Thousand) before the Sessions Court, Aurangabad.
 - b] The applicant shall attend each and every date before the Sessions Court, Aurangabad without default till disposal of the trial.
- III. Bail application is accordingly disposed off.

(S.G. CHAPALGAONKAR J.)

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