



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

BAIL APPLICATION NO. 881 OF 2024

KHALED PATEL RAJJAK PATEL
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Shubham J. Ladda and
Mr. Shaikh Mohseen Iman
APP for Respondent : Mrs. Priya R. Bharaswadkar
...

CORAM : S. G. MEHARE, J.

DATE : 03-07-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for respondent.
2. The applicant seeks bail in C.R.No.295 of 2013 registered with Cidco Police Station, District Aurangabad, for the offences punishable under Sections 394 and 341 read with Section 34 of the Indian Penal Code (for short, "I.P.C.").
3. The facts of the case, in brief, were that the accused has been charged for the above offences. He was attending the trial. However, in 2018, the learned Judicial Magistrate First Class, Aurangabad expressed a view that the offence under Section 397 of the I.P.C. is made out. He committed case to the Court of learned Additional Sessions Judge, Aurangabad. Thereafter, the matter was pending for muddemal. He attended the trial till 2019.

Thereafter, he did not appear. Hence, non-bailable warrant (NBW) was issued against him. NBW was executed and he was produced before the learned Additional Sessions Judge. He refused to cancel the NBW and cancelled his bail and took him in custody on 16.01.2024. Since then, he is behind bar. His application for bail was rejected on 03.05.2024.

4. The applicant had moved an application for cancellation of NBW contending that there were no earning member in his family. He was the only breadwinner. He want to observe the fast on holy Ramadan. Therefore, NBW may be cancelled.

5. Now, the learned counsel for the applicant argued that due to Covid-19 Pandemic, he had lost his job. Hence, he went away. He did not remain absent deliberately from the trial. There are no antecedents to his discredit.

6. Learned A.P.P. has opposed the application. She argued that the applicant was absent for a long period. There are chances of absconding. Hence, he does not deserve bail.

7. The facts of the case, as mentioned above, reveal that initially the case was tried before the learned Magistrate. However, in 2018, it was committed to Sessions Court. Since the case was pending for muddamal property for a long period, there was no progress in the trial. Even after his arrest no charges have been

framed. He is a labour. So possibility of his migration for his employment cannot be ruled out. In the facts and circumstances of the case and no material progress in the trial, it would be inappropriate to keep him behind bar. Therefore, discretion under Section 439 of the Code of Criminal Procedure may be exercised. Hence, the order :-

ORDER

- i) The application is allowed.
- ii) Applicant Khaled Patel Rajjak Patel be released on bail, on furnishing PB and SB of Rs.50,000/-, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,
 - (a) He shall attend the trial on each and every effective date.
 - (b) He shall furnish undertaking that he shall not leave the place of his residence without leave of the Court, till the conclusion of the trial.
 - (c) Bail before the learned Additional Sessions Judge, Aurangabad.
- iii) Learned Additional Sessions Judge, Aurangabad is directed to expedite the trial.

**(S. G. MEHARE)
JUDGE**