



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

BAIL APPLICATION NO. 1301 OF 2024

DATTU KUSHABHAU KHAMATE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Bharat N. Gadegaonkar
APP for Respondent : Mr. S. P. Sonpawale

...
AND
BAIL APPLICATION NO. 1358 OF 2024

SUNDARRAO S/O. KISANRAO KOLHE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Yogesh G. Somani
APP for Respondent : Mr. S. P. Sonpawale
...

CORAM : S. G. MEHARE, J.

DATE : 30-08-2024

PER COURT :-

1. Heard the learned counsels for the applicants and the learned A.P.P. for the respondent.
2. The applicants seek bail after cancellation of bail in C.R.No.445 of 2022 registered with Badnapur Police Station, District Jalna, for the offences punishable under Sections 376(2)(I) and 376D of the Indian Penal Code.
3. The learned counsels for the applicants submit that they are poor labours. Hence, it was not possible for them to attend the trial. However, the chart reproduced by the learned Additional

Sessions Judge while rejecting bail shows that some of the accused remained absent one by one and the matter was adjourned. The prosecutrix was present for eight continuous dates and on many dates application for adjournment was filed. The most favourable practice of the Advocate having no instructions has also played in this matter. The fact and the conduct of the applicants shows that they were not diligent and serious about the trial. Their approach was casual. At the same time, the prosecutor is not sure how much time it will take to conclude the trial. Besides this, none of the applicants were taken into custody. Other co-accused remained absent. It was the same *modus operandi* of the accused without bothering the Court's order. Due to the conduct of the applicants, the trial Court was compelled to stop issuing summons to the witnesses atleast to save their harassment. Now the applicants are begging before this Court that they are poor. They are shepherds. Hence, one opportunity may be granted to them to obey the Court's order. Since the trial may take time its time, bail may be granted subject to compensation to be paid to the victim for harassment and repeated visits to the Court to lead evidence. Hence, the order:-

ORDER

- i) The bail applications are allowed.
- ii) Applicant – Dattu s/o. Kushabhau Khamate in B.A.No.1301 of 2024 and applicant – Sundarrao s/o. Kisanrao Kolhe in

B.A.No.1358 of 2024 be released on bail, on furnishing PB and SB of Rs.50,000/- each, with one solvent surety of the like amount, in the above crime for the aforesaid offences, on the conditions that,

- (a) If they remain absent on any date, this order would be treated as cancelled and accused be taken in custody as under trial prisoners.
- (b) They should pay Rs.10,000/- (Rs.Ten Thousands) each to the victim as compensation for harassment and disrespect to the law. The compensation should be paid to the victim in the trial Court within three weeks from today.
- (c) The learned trial Court is directed to take the applicants immediately in custody if they do not attend the trial on each and every date without any reason beyond their control.

(S. G. MEHARE)
JUDGE