



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

31 BAIL APPLICATION NO. 2294 OF 2023

AKSHAY BHIMA GADE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Ms. Suvarna M. Zaware.
APP for Respondent/State : Mrs. Pratibha J. Bharad.
...

CORAM : **SANJAY A. DESHMUKH, J.**
DATE : 22nd January, 2024.

P.C.:

1 Heard.

2 This is an application, under Section 439 of the Code of Criminal Procedure, 1973, for grant of regular bail in connection with Crime No.26 of 2021, registered with Tophkhana Police Station, District Ahmednagar, for the offences punishable under Section 395 of the Indian Penal Code.

3 The applicant was arrested in Crime No.26 of 2021 registered with Tophkhana Police Station, District Ahmednagar. The applicant was released on bail, however, he remained absent on 26th May, 2023 and thereafter, non-bailable warrant was issued against him. He filed application for cancellation of that non-bailable warrant. It was rejected on 24th August, 2023. Thereafter, the applicant made

application under Section 439 of the Code of Criminal Procedure for regular bail. It was rejected, which is challenged here.

4 The learned counsel for applicant pointed out both the orders passed by the learned Trial Court, particularly, the order passed on 1st November, 2023. The learned counsel for applicant submitted that the applicant has roots in the society. The trial will take long period. The applicant has not deliberately jumped the bail. It is lastly prayed to allow the application.

5 The learned APP for the State strongly opposed the application and contended that due to the absency of the accused, charge cannot be framed. It is lastly prayed to reject the application.

6 Perused the impugned orders. The applicant has no criminal antecedents. From 21st January, 2021 till 8th March, 2021 the applicant was in jail. But, thereafter, NBW was issued against him on 26th May, 2023, when he was absent. It is not observed anywhere that the applicant remained absent for trial continuously for longer period. The applicant has roots in the society. He will not flee away from trial. He himself appeared for cancellation of NBW order. This shows that he has no intention to remain absent and wants to proceed further with the trial. Therefore, the application deserves to be allowed. Hence, the following order:-

ORDER

- I. The application is allowed.
- II. The applicant in connection with Crime No.26 of 2021, registered with Tophkhana Police Station, District Ahmednagar, for the offences punishable under Section 395 of the Indian Penal Code, be released on bail on furnishing personal bond of Rs.50,000/- with surety of the like amount on following condition:-
 - a) The applicant shall attend the concerned Court for all the dates.

[SANJAY A. DESHMUKH, J.]

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