



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.280 OF 2024

Shivaram Narayan Salavi

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Kunal D. Nawale, Advocate for the Applicant.
Ms. Veera Shinde, APP for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.

DATED : 31st JANUARY 2024

PC:-

1. Heard Mr. Nawale, learned Counsel appearing for the Applicant and Ms. Shinde, learned APP appearing for the Respondent-State.
2. This Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*.
3. The F.I.R. was lodged on 8th January 2015 for the offence punishable under Sections 354, 376, 506 and 420 of the Indian Penal Code, 1860. The Applicant was arrested on 8th January 2015. Thereafter the Charge-sheet was filed on 29th March 2015. The

Applicant was released on bail by Order dated 17th June 2015 passed by the learned Additional Sessions Judge, Khed below Exhibit-1 in Bail Application No.61 of 2015. The operative portion of the said order reads as under:-

“ORDER

- 1. The application is granted.*
- 2. The applicant/accused be released on bail on his executing P. B. & S. B. of Rs.15,000/- (Rs. Fifteen thousand only) in C.R. No.2 of 2015 registered into Guhagar police station, also on condition that he will not enter in the area of Shrungartali, Taluka Guhagar and also in village Pacheri Sada, Taluka Guhagar, Dist-Ratnagiri untill further orders and also will not tamper the prosecution evidence”.*
4. Thereafter the Applicant was arrested on 5th September 2022 as a Non-Bailable Warrant was issued against him as he failed to appear before the learned Trial Court.
5. It is the contention of Mr. Nawale, learned Counsel appearing for the Applicant that the Applicant was regularly attending the trial. Only during COVID-19 pandemic period he remained absent and thereafter he was attending the trial regularly. He submitted that only on one date i.e. 15th February

2022 he was absent and therefore, immediately an Arrest Warrant was issued and he was taken into custody on 5th September 2022. He submitted that Roznama clearly shows that the Applicant has attended most of the hearings and therefore, he should have been released on bail. He submitted that although the learned Trial Court has observed that on six occasions a warrant was required to be issued against the Applicant and that he had fled away from police custody, however, there is nothing on record to substantiate the same.

6. Ms. Shinde learned APP appearing for the Respondent-State submitted that the offence is of the year 2015 and as the Applicant was not attending the trial till 2024, the trial could not be concluded. She further submitted that the Applicant was fled away from police custody and therefore, bail should not be granted. She submitted that examination-in-chief of the victim is already recorded and the matter is pending for cross-examination.

7. Perusal of the Bail Application shows that till Court working was not affected by the COVID-19 pandemic, the Applicant has attended most of the dates. After COVID-19 pandemic also the

Applicant has attended most of the hearings. Thereafter, from 8th January 2021 to 6th March 2021 the Applicant has attended the Court. Thereafter in the 2nd wave of the COVID-19 pandemic the work was affected. Thereafter also Roznama shows that on various dates either the Applicant was present or his Exemption Application was allowed. The Non-Bailable Warrant was issued for the first time on 15th February 2022 as the Applicant was not present. However, on earlier date i.e. on 9th February 2022, the Applicant had filed an Application seeking exemption and the same was allowed. Thereafter, Roznama shows that the matter was adjourned as the Arrest Warrant could not be executed. The Arrest Warrant was executed for the first time on 15th September 2022 and he was taken into custody. There is nothing on record to show that the Applicant has fled away from police custody.

8. The Supreme Court by Order dated 24th January 2024 passed in Criminal Appeal No.383 of 2024 held that merely because the Applicant therein could not appear personally, it could not have been a ground for cancellation of bail. The parameters for grant of bail and cancellation of bail are totally different. The bail already granted may be cancelled, if it is found that the person

who has been granted the benefit of bail has violated any of the conditions or misused the liberty by influencing the witnesses or tampering with the evidence. There is nothing on record to show that the Applicant has violated any of the conditions or misused the liberty by influencing the witnesses or tampering with the evidence.

9. Mr. Nawale, learned Counsel appearing for the Applicant states that the Applicant will regularly attend the Trial Court on each and every date and he will be available for trial.

10. Accordingly, the Applicant is entitled to be released on bail by imposing conditions. In view thereof, the following order:-

ORDER

- (a) The Applicant-Shivaram Narayan Salavi be released on bail in connection with C. R. No.2 of 2015 registered with the Guhagar Police Station, Taluka-Guhagar, District-Ratnagiri on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties

in the like amount.

- (b) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (c) The Applicant shall not enter the area of Shrungartali, Taluka-Guhagar, District-Ratnagiri and also in village Pacheri Sada, Taluka-Guhagar, District-Ratnagiri till the conclusion of the trial.
- (d) The Applicant shall report to the Guhagar Police Station, Taluka-Guhagar, District-Ratnagiri once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial.
- (e) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade such a person from disclosing the facts to the Court or

to any Police personnel.

- (f) The Applicant shall not tamper with the evidence and shall not contact or influence the Complainant or any witnesses in any manner.
- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicant shall surrender his passport, if any, to the Investigating Officer.
- (i) The Applicant shall comply with the conditions imposed by Order dated 17th June 2015 passed below Exhibit-1 in Bail Application No.61 of 2015 by the learned Additional Sessions Judge, Khed.

11. The Bail Application is disposed of accordingly.

(MADHAV J. JAMDAR, J.)