

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO.1418 OF 2024

Shirishkumar Rangrao Chavan

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. A.R. Avachat (through VC) a/w S.H. Deshpande, Advocates, for the Applicant.

Mr. P.H. Gaikwad, APP, for Respondent-State.

API Rajratna B. Khairnar, Panvel City Police Station, Navi Mumbai-present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 17th April 2024

P. C.

1. Heard Mr. Avachat, learned Counsel for the Applicant and Mr. Gaikwad, learned APP for the Respondent-State.
2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1. C.R. No.	355 of 2012
2. Date of registration of F.I.R.	22 nd July 2012
3. Name of Police Station	Panvel City, District-Raigad
4. Section/s invoked	420, 406 r/w 34 of <i>I.P.C., 1860</i> ;
5. Date of incident	1 st March 2010
6. Date of arrest	Earlier on 28 th July 2012 and re-arrested on 20 th October 2023.
7. Date of filing Charge-sheet	25 th September 2012

3. The factual position on record shows that the Applicant was arrested on 28th July 2012 and was granted bail by Order dated 1st October 2012. The said Order reads as under:

“Perused the contents of the application and say filed by the investigating officer. Heard the A.P.P. for the State and the Advocate for the accused.

By this application accused no.1 is seeking his release on bail on various grounds. Initially, the bail application of accused no.1 was rejected as investigation was in progress. Now the chargesheet against accused nos.1 & 2 is filed bearing R.C.C. no.748/2012.

Since his arrest accused no.1 is in jail. Offences alleged against the accused are triable by this court. Therefore, no point to detain the accused in jail for further period. Therefore, accused deserves his release on bail. Hence order.

ORDER

The accused no.1 is hereby released on bail on his furnishing P.R. Bond of Rs.50,000/- with one solvent local surety of the like amount on the conditions that he shall not tamper the prosecution evidence and shall attend every date fixed.”

4. Thereafter as the Applicant was not attending the trial, a non-bailable warrant was issued by Order dated 14th February 2018. Thereafter proclamation was issued on 28th July 2022 and the Applicant was taken into custody on 20th October 2023.

5. Mr. Avachat, learned Counsel for the Applicant submitted that there were certain orders passed by the Consumer Court and as the

Applicant has not complied with the same, pursuant to the Orders passed by the Consumer Court, he was taken into custody in November 2016 and, released in May 2017. He submitted that Applicant's mother passed away on 6th April 2018 and that she was paralyzed for almost two years until her death. He submitted that due to some misunderstanding with the lawyer and because he had undergone a surgery, he failed to remain present in the Trial Court. He therefore requested that the Applicant be enlarged on bail.

6. On the other hand, Mr. Gaikwad, learned APP vehemently opposed the Bail Application and pointed out observations in the Order dated 25th October 2023 passed by the learned J.M.F.C., Panvel wherein it is stated that the Charge against the Accused was framed in 2016, however, the Accused failed to attend the Court and had absconded and on several occasions, arrest warrants were issued and therefore, the Bail Application be rejected. Mr. Gaikwad, learned APP also pointed out the Order dated 25th December 2023 passed by the learned Additional District Judge, Panvel in B.A. No. 1010 of 2023.

7. Perusal of the record shows that by Order dated 1st October 2012, the Applicant was released on bail on merits. Thereafter during the period of November 2016 to May 2017, the Applicant was taken into custody pursuant to the Order passed by the Consumer Court.

8. Thus observations of the learned J.M.F.C. that in 2016, Charge was framed and thereafter the Accused chose not to attend the Court is not correct as at least during the period of November 2016 to May 2017, the Applicant was in jail, pursuant to the above referred Order passed by the Consumer Court.

9. However, there is some substance in the contention raised by Mr. Gaikwad, learned APP that even after May 2017, the Applicant failed to remain present.

10. Mr. Avachat, learned Counsel for the Applicant has pointed out certain difficulties faced by the Applicant. However, Mr. Avachat submitted that the Applicant will attend each and every date and he will file an undertaking to that effect before the learned Trial Court within a period of one month after release on bail.

11. It is to be noted that the Applicant has been released on bail on merits by Order dated 28th July 2012.

12. The Applicant does not appear to be at risk of flight.

13. The Applicant does not have any criminal antecedents.

14. Accordingly, the Applicant can be enlarged on bail by imposing stringent conditions.

15. In view thereof, the following order:-

ORDER

(a) The Applicant - Shirishkumar Rangrao Chavan be released on bail in connection with C.R. No.355 of 2012 registered with the Panvel City Police Station, District - Raigad on his furnishing P. R. Bond of Rs.50,000/- with one or two local 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 report to the Panvel City Police Station, District - Raigad once every week i.e. on Sunday between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(d) 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.

(e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any prosecution witness in any manner.

- (f) The Applicant shall attend the trial regularly and file undertaking to that effect before the learned Trial Court within one month after release of the Applicant on bail.
- (g) The Applicant shall co-operate with the learned Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

16. The Bail Application is disposed of accordingly.

17. It is clarified that observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this Order.

[MADHAV J. JAMDAR, J.]