

State of Maharashtra and Anr. ... Respondents

Mr. Pankaj Deokar, APP, for the Respondent / State.

DATE : 27TH AUGUST, 2024.

3. While opposing the bail application, the learned APP is strongly relying upon the memorandum under Section 27 of the Evidence Act wherein the co-accused has stated that he committed the alleged offence along with the present applicant.

4. As far as the eyewitness on which the learned APP is relying upon, he did not name the applicant but he said one person was there along with the co-accused i.e. accused no. 1. Though he named the accused no. 1, he referred the other one as unknown.

5. In the above referred backdrop, the identification was ought to have conducted which admittedly not conducted in the present matter.

6. In the circumstances, in absence of any evidence against the applicant or any recovery from the applicant, is not safe to rely upon the co-accused's statement recorded under Section 27 of the Evidence Act, to deny the bail to the applicant.

7. In the circumstances, as the charge-sheet has been filed after completion of the investigation and as there is no antecedents against the applicant, I am of the opinion that this is a fit case for grant of bail. Accordingly, I pass the following order:

ORDER

- (i) Criminal Bail Application is allowed and disposed off;
- (ii) It is directed that the applicant shall be released on bail in Crime No.1032 of 2023, registered with Bhosari Police Station, Pune for the offences punishable under Sections 302, 201 r/w. 34 of the Indian Penal Code and Sections 37(1) (3) with 135 of the Maharashtra Police Act,

on furnishing P.R.Bond of Rupees Twenty-five Thousand with one solvent surety in the like amount;

iii) The applicant shall provide his address and name of the nearby police station to the IO, which he shall attend the said Police Station on 1st and 16th day of every month between 10.00a.m 11.00 a.m, till the conclusion of the trial except on the date of trial;

iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

v) Liberty is granted to the State for cancellation of bail if the applicant commits similar offence;

vi) The applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the trial Court for any reason.

(ANIL S. KILOR, J)