

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

BAIL APPLICATION NO.3443 OF 2024

Santosh Vishnu Tambe	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. S. H. Deshpande i/b Mr. A. R. Avachat, for the Applicant.
 Ms. Rajeshree V. Newton – APP, for the Respondent – State.
 Mr. Sachin Waykar, P.S.I., Panvel City Police Station, District – Raigad,
 present.

**CORAM: MADHAV J. JAMDAR, J.
DATED: 27 AUGUST 2024**

P.C. :

1. Heard Mr. Deshpande, learned Counsel for the Applicant and Ms. Newton, 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.	I 355 of 2012
2.	Date of registration of F.I.R.	22nd July 2012
3.	Name of Police Station	Panvel City, District – Raigad
4.	Section/s invoked	420, 406 r/w 34 of the <i>I.P.C., 1860</i> ;
5.	Date of incident	1st March 2010
6.	Date of arrest	Earlier on 28th July 2012 and re-arrested on 9th March 2024.
7.	Date of filing Charge-sheet	25th September 2012

3. The factual position on record shows that the Applicant was

arrested on 28th July 2012 in said C.R. No. I-355 of 2012 and was granted bail by Order dated 6th September 2012 passed by the learned Judicial Magistrate First Class, Panvel. The said Order reads as under:

*“From the allegations, it is seen that **the present accused no.2 is not main perpetrator**. No recovery seems to have been from accused no.2. Therefore, if accused no.2 is released on bail after putting stringent conditions the apprehension of the investigating officer can be curbed as no material is produced to show that accused no.2 does not deserve bail or his being at large would thwart the course of justice. Hence, accused no.2 deserves his release on bail. Hence order.*

ORDER

- 1 The accused no.2 Santosh Vishnu Tambe is hereby released on bail on his furnishing P. R. Bond of Rs.50,000/- and solvent local surety of the like amount on the following terms and conditions.
- 2 The accused no.2 shall attend Panvel Town Police station on every day in between 4.00 p.m. to 8-00 p.m. till further orders.
- 3 The accused shall co-operate the investigating officer.
- 4 The accused shall not tamper evidence of the prosecution in any manner.”

(Emphasis supplied)

4. Thereafter as the Applicant was not attending the trial, a non-bailable warrant was issued by Order dated 12th April 2023 and the Applicant was taken into custody on 9th March 2024.

5. Mr. Deshpande, learned Counsel for the Applicant submitted that the Applicant was granted bail by the Trial Court on 6th September 2012. He submitted that as there was miscommunication between him

and the earlier Advocate, he could not get the information regarding the dates. He submitted that further during COVID-19 pandemic the Courts functioning was affected and therefore he could not get the information regarding the dates and he could not remain present before the learned Trial Court for attending the trial. He submitted that the Applicant will attend all the dates and that the Applicant undertakes to remain present before the learned Trial Court as and when the trial is fixed.

6. On the other hand, Ms. Newton, learned APP strongly opposed the Bail Application. She submitted that the Applicant is not attending the trial since the year 2016. She submitted that as the Accused was absconding, a non-bailable warrant was required to be issued and pursuant to the said non-bailable warrant, the Applicant had been arrested on 9th March 2024.

7. Perusal of the record shows that by Order dated 6th September 2012, the Applicant was released on bail by considering the merits of his case. It is required to be noted that in the Order dated 6th September 2012 granting bail to the Applicant the learned Trial Court has specifically stated that the present Applicant who is Accused No.2 is not the main Accused. Thereafter the Applicant has failed to attend the trial since the year 2016.

8. Mr. Deshpande, learned Counsel for the Applicant submitted that the main Accused is Accused No.1 – Shirishkumar Chavan who is the

Builder and the present Applicant was working in his Office.

9. Mr. Deshpande, learned Counsel has pointed out certain difficulties faced by the Applicant. He 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 1 month after the Applicant is released on bail.

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

11. The Applicant does not have any criminal antecedents.

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

13. In view thereof, the following order:-

ORDER

(a) The Applicant - Santosh Vishnu Tambe be released on bail in connection with C.R. No.I 355 of 2012 registered with the Panvel City Police Station, District - Raigad on his furnishing P. R. Bond of Rs.25,000/- 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.

14. The Bail Application is disposed of accordingly.

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

[MADHAV J. JAMDAR, J.]