



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 635 OF 2025
IN
CRIMINAL REVISION APPLICATION NO. 62 OF 2025

Sayyad @ Shaikh Nawaj s/o
Sayyad Shaikh Shadulla,
Age : 47 years, Occupation : Labour,
R/o. Siddharth Nagar, Balapur,
Taluka Dharmabad, District Nanded.

... Applicant
[Orig. Accused]

Versus

The State of Maharashtra,
Through the Police Station Officer,
Dharmabad Police Station,
District Nanded.

... Respondent

.....
Mr. Amol N. Patale, Advocate for the Applicant.
Mr. N. D. Batule, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

DATED : 11.03.2025

ORDER :

1. By instant application, applicant has pressed into service prayer for release on bail during pendency of the revision application, in which exception has been taken to the judgment and order dated 24.01.2025 passed by learned Additional Sessions Judge, Biloli in

Criminal Appeal No. 28 of 2018, arising out of judgment and order dated 25.06.2018 passed by learned J.M.F.C., Dharmabad in R.C.C. No. 75 of 2017.

2. Learned counsel for the applicant pointed out that applicant is made original accused in above R.C.C. No. 75 of 2017 wherein there are allegations of committing theft of sand. On being chargesheeted and tried, learned J.M.F.C. conducted the proceedings, convicted the applicant for offence under Section 379 of IPC and directed to deposit fine of Rs.50,000/-. That, fine amount is already paid. That, his attempt to question the order of learned J.M.F.C. before learned Additional Sessions Judge, Biloli also went futile, as his appeal bearing Criminal Appeal No. 28 of 2018 has been dismissed by order dated 24.01.2025, against which instant revision has been preferred bearing Criminal Revision Application No. 62 of 2025.

3. Learned counsel further submitted that both the impugned orders are questioned by preferring revision. However, revision is of the year 2025. Moreover, during proceedings before learned J.M.F.C. as well as before learned Additional Sessions Judge, Biloli, applicant was on bail. That, on merits, order of conviction passed by learned J.M.F.C. and confirmed by first appellate court is challenged by

preferring revision. However, much more time would be required for hearing the same and hence, during pendency of revision, prayers are made for release of the applicant on bail.

4. Learned APP opposed on the ground that on full-fledged trial, conviction is recorded by learned J.M.F.C., and even learned first appellate court confirmed the same, as essential ingredients for attracting the offence were available in the prosecution evidence. On above ground, bail is opposed.

5. On going through the papers, it seems that on information of one Shyamsundar Bhavangirkar, report was lodged regarding theft of sand being committed and it being transported. On receipt of such information, raid was conducted and applicant was apprehended along with vehicle which was seized. Applicant was therefore tried vide R.C.C. No. 75 of 2017 and by judgment and order dated 25.06.2018, learned J.M.F.C. accepted the prosecution case and convicted the applicant for offence under Section 379 of IPC. Appeal preferred against that order also failed. However, against said orders of both, learned J.M.F.C. as well as learned first appellate court, revision has been preferred bearing Criminal Revision Application No.62 of 2025.

6. Apparently, revision is of the current year. Statement is made across the bar that, during proceedings before the trial court as well as the first appellate court, applicant was on bail. Receipt of payment of amount, as directed, is also placed on record. Therefore, for above reasons, prayer for grant of bail is required to be allowed. Hence, I proceed to pass the following order :

ORDER

- I. Criminal Application stands allowed.
- II. The sentence imposed on the applicant in R.C.C. No. 75 of 2017 by the learned J.M.F.C., Dharmabad on 25.06.2018, which is confirmed by learned Additional Sessions Judge, Biloli by judgment and order dated 24.01.2025 in Criminal Appeal No. 28 of 2018, stands suspended till the final hearing and disposal of Criminal Revision Application No. 62 of 2025.
- III. The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one solvent surety in the like amount.
- IV. The applicant shall not commit any criminal activity.
- V. The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the Criminal Revision Application, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.

VI. In case of two consecutive defaults on the part of the applicant to remain present before the trial court, the trial court to inform this court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicant.

VII. Bail before the trial court

[ABHAY S. WAGHWASE, J.]

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