

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

CRIMINAL BAIL APPLICATION NO.5226 OF 2024

Shantanu Laxman Nimbalkar ...Applicant

VERSUS

The State of Maharashtra ...Respondent

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Mr. Shailesh Kharat a/w Mr. Swapnil Kshirsagar a/w Mr. Tanmay Kale a/w Mr. Onkar Choudhari, Advocate for the Applicant.

Mr. S. V. Walve A.P.P. for the Respondent – State.

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CORAM : N. R. BORKAR, J.
DATE : 11.02.2025.

P.C.:

1. This is an application for regular bail.
2. The applicant is accused in Sessions case No. 47/2019 the offences punishable under Sections 376(2) (n), 306 & 420 of the Indian Penal Code pending on the file of Additional Sessions Judge, Mangaon, Raigad.
3. The applicant was absent on the dates of hearing before the trial Court and thus the non-bailable warrant was issued against the applicant. The applicant had filed an application for cancellation of Non-bailable warrant. By order dated 04-09-2024, the trial Court has refused to cancel the Non-Bailable Warrant and took the applicant in

custody. By order dated 01.10.2024, the trial Court rejected the application filed by the applicant for regular bail.

4. I have heard the learned counsel for the applicant and the learned APP for the respondent/State.

5. The learned counsel for the applicant submits that as the applicant was in custody in another crime and therefore could not appear before the trial Court. It is submitted that for about five months the applicant is in jail after the trial Court has taken him in custody. It is thus submitted that the applicant may be released on bail.

6. On the other hand, the learned APP for the State submits that the matter is more than five years old. It is submitted that the trial has already commenced, and therefore now the applicant may not be released on bail.

7. The fact that applicant was in custody from 29.12.2023 to 02.03.2024, in another crime No. 54 of 2023 is not disputed. The first non-bailable warrant was issued against the applicant on 07.02.2024. The applicant has stated that on 26.04.2024, he could not attend the hearing before trial Court in view of the demise of his brother-in-law. Considering the overall facts and circumstances of the case, I am inclined to release the applicant on bail on certain conditions. In the result, the following order is passed:

ORDER

A] The Application is allowed.

B] The applicant shall be released on bail in Sessions Case No. 47 of 2019 pending on the file of Additional Sessions Judge, Mangaon, Raigad, on furnishing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

C] The applicant shall not commit any further defaults in attending the dates before the trial Court.

D] It would be open to the trial Court to take the applicant in custody if the applicant commits two consecutive defaults in attending the dates before the trial Court.

8. Application stands disposed of accordingly.

(N. R. BORKAR, J.)