

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 232 OF 2025

Gaurav Vijay Akade

... Appellant

Versus

State of Maharashtra & Anr.

... Respondents

.....

Mr. Narayan G. Rokade a/w. Mr. Siddharth R. Ghodke, Mr. Abhang Suryawanshi and Mr. Ramchandra Wagh, Advocates for the Appellant.

Mr. Shrikant H. Yadav, APP for the State.

Mr. R. N. Gite, Advocate for Respondent No.2.

PSI – Machindra Kolhe, Pimpalgaon Police Station present.

CORAM : SHIVKUMAR DIGE, J.

DATED : 28th APRIL, 2025.

P. C. :

1. Heard learned counsel for the appellant, learned APP for the state and learned counsel for respondent No.2.
2. Learned counsel for respondent No.2 tendered affidavit in reply. It is taken on record.
3. By this appeal, the appellant has challenged the order passed below Exhibit-96 passed by Additional Sessions Judge, Niphad.
4. It is contention of learned counsel for the appellant that appellant has been arrested in execution of Non Bailable Warrant (NBW) and he is behind bar since 05.12.2024. The matter is kept before the Trial Court for

recording the statement of accused under Section 313 of Cr.P.C. but co-accused remained absent. Hence, statement of the appellant under Section 313 of Cr.P.C. could not be recorded, hence requested to allow the appeal.

5. Learned APP and learned counsel for the respondent No.2 strongly objected to allow the appeal on the ground that the appellant has got default bail. The appellant is a habitual offender. The appellant has antecedents. The learned Special Court has passed detailed order observing behaviour of the appellant. The appellant willfully remained absent before the Special Court. If appellant released on bail, he may again abscond. The Special Case is of year 2011, hence requested to dismiss the appeal.

6. I have heard all learned counsel. Perused impugned order. While rejecting the application filed by the appellant to release on bail, learned Special Judge has observed that the appellant has previous antecedents. He is habitual offender. The matter is pending since year 2011. The matter is at fag end. The same is pending for recording statements of the appellant and co-accused under Section 313 of Cr.P.C. NBW was issued against the appellant on 21.06.2024 and it got canceled on 28.06.2024 but again he remained absent, hence NBW was issued against him on 16.10.2024 and 06.11.2024. Considering these facts, the Special Court observed that the appellant is not entitled for bail and has rejected the

application. In my view, though the matter is kept for recording statement under Section 313 of Cr.P.C., other co-accused was absent. So keeping the appellant behind bar would not fulfill any purpose. If appellant is directed to attend the police station twice in month, it would suffice and I pass following order :

ORDER

- i. The order dated 21.02.2025 passed below Exhibit-96 is quashed and set aside.
- ii. The appellant be released on bail on executing PR. Bond in the sum of Rs.50,000/- with one or two solvent sureties in the like amount.
- iii. The appellant shall attend the Pimpalgaon Baswant Police Station twice in a month on every first and third Monday of the month between 11:00 a.m. to 1:00 p.m. till framing of statement under Section 313 of Cr.P.C.
- iv. The appellant shall attend the Court dates regularly.

7. The appeal is allowed in the aforesaid terms and accordingly disposed of.

8. All concerned to act on an authenticated copy of this order.

(SHIVKUMAR DIGE, J.)