

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 824 OF 2025

Shubham Sharad Vedpathak ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Priyal G. Sarda a/w Ms. Seema S. Dighe and Mr. Shubham Sane i/b
Mr. Rajesh S. Ranglani, learned Advocate for the Applicant.
Ms. Madhavi H. Mhatre, learned A.P.P for the State/Respondent.

CORAM : ASHWIN D. BHOBE, J.
DATE : 4th AUGUST 2025.

P.C. :

1. Heard Mr. Priyal Sarda, learned Advocate for the Applicant and Ms. Madhavi Mhatre, learned A.P.P for the State/Respondent.
2. By the present Application, Applicant is seeking the following relief :-

“a. That the order dated 11.06.2025 passed by the Ld. Addl. Sessions Judge, Barshi in Cri. M.A. No. 309/2025 (Exh.-C) and the cause (d) of an order dated 29.04.2025 passed in Criminal Bail Application No. 226/2025 (Exh.-B) passed by the Ld. Addl. Sessions Judge, Barshi be quashed and set aside.”

3. Applicant is accused of committing offence punishable under Sections 316(4), 351(2)(3) and 317(4) of the Bharatiya Nyaya Sanhita, 2023 registered at Crime No. 289 of 2025 with Barshi City

Police Station, Solapur Rural. Said crime is registered as RCC No. 219 of 2025 and is pending before the Court of learned Judicial Magistrate First Class, Barshi.

4. Applicant was arrested on 18th March 2025. Criminal Bail Application No. 226 of 2025 filed by the Applicant was allowed by the Court of Additional Sessions Judge, Barshi, District-Solapur Rural, by its order dated 29th April 2025. Conditions for release of the Applicant on bail are as follows :-

“1. Criminal Bail Application No. 226/2025 is hereby allowed.

*2. The applicant namely **Shubham Sharad Vedpathak** be released on bail on executing P. R. bond of Rs. 25,000/- with one or more sureties of like sum, in connection with Crime No. 289/2025 registered with Barshi City Police Station for the offences punishable u/s 316(4), 351(2)(3) and 317(4) of the Bharatiya Nyaya Sanhita, 2023 on following conditions:-*

a) The applicant shall attend Barshi City police station on every Sunday in between 11.00 a.m. to 1.00 p.m., till filing of charge sheet.

b) He shall not pressurize the complainant and witnesses.

c) He is directed to furnish his local address and contact number to Barshi City police station.

d) He is directed to deposit the amount of Rs. 5,00,000/- before the Learned Magistrate, Barshi as a cash security.

e) Bail before Learned JMFC, Barshi.”

5. Applicant is aggrieved by the bail condition no. 2(d), which directs the Applicant to deposit the amount of Rs. 5,00,000/-

before the learned Magistrate, Barshi as a cash security.

6. Mr. Priyal Sarda, learned Advocate for the Applicant submits that the condition no. 2(d) imposed in the bail order dated 29th April 2025, is a onerous condition. He submits that in view of the said condition, despite the Applicant being granted bail, he is in jail from 29th April 2025 till date, as the Applicant is unable to fulfill the said condition. He submits that though a request for relaxation of the said condition was made before the learned Additional Sessions Judge, Barshi, the same was rejected by order dated 11th June 2025.

7. Ms. Madhavi Mhatre, learned A.P.P. for the State/Respondent submits that such condition (i.e. condition no. 2(d)), would not be tenable.

8. In the case of *Gajanan Dattatray Gore v/s. State of Maharashtra*¹, the Hon'ble Supreme Court in paragraph nos. 15 to 24 has held as follows :-

“15. We have noticed over a period of time that orders of regular bail and anticipatory bail are being passed by different High Courts subject to deposit of some amount.

16. We have come across cases like the one in hand where accused persons have gone to the extent of filing affidavits in the form of undertaking that they would deposit a particular amount within a particular period and then conveniently resile from such undertakings saying it is an onerous condition.

17. In some cases, perhaps the accused may abide by such undertaking, but our experience so far has been that in many cases the accused later would not abide and flout the

¹ Criminal Appeal No. 3219 of 2025 decided on 28th July 2025.

undertaking. In many cases it would be argued on behalf of the accused that he had never made such a statement and the court on its own had recorded in the order that the accused is ready and willing to deposit a particular amount. At times the entire blame is thrown on the lawyer in making such statement for the purpose of obtaining order of bail or anticipatory bail as the case may be. In such circumstances, the concerned court would be left with no other option but to cancel the bail either at the instance of the State or the original complainant.

18. The case in hand is one in which the appellant on his own free will and volition filed an affidavit in the form of an undertaking before the High Court that he would deposit an amount of Rs.25,00,000/- but ultimately resiled to do so and the High Court had to cancel the bail. It was too much for the lawyer of the appellant to argue before the High Court that asking his client to deposit Rs. 25,00,000/- was unreasonable. It reflects on the professional ethics.

19. By this order, we make it clear and that too in the form of directions that henceforth no Trial Court or any of the High Courts shall pass any order of grant of regular bail or anticipatory bail on any undertaking that the accused might be ready to furnish for the purpose of obtaining appropriate reliefs.

20. The High Courts as well as the Trial Courts shall decide the plea for regular bail or anticipatory bail strictly on the merits of the case. The High Courts and the Trial Courts shall not exercise their discretion in this regard on any undertaking or any statement that the accused may be ready and willing to make. 21. This practice has to be stopped. Litigants are taking the courts for a ride and thereby undermining the dignity and honor of the court.

22. We hope and trust that the High Courts as well as the Trial Courts across the country do not commit the same mistake again.

23. In the case in hand, so far as the plea for regular bail is concerned, we are not inclined to look into. The appellant has made a mockery of justice. He could be said to have abused the process of law. If at all the High Court wanted to release the appellant on bail, it should have first asked him to deposit

the amount within a particular period of time and upon such deposit the appellant could have been released.

24. Be that as it may, now we have made ourselves very clear that there shall not be a single order that the High Courts and the Trial Courts shall pass for grant of regular bail or anticipatory bail on the basis of any accused or his/her family members giving an undertaking to deposit a particular amount. The plea shall be decided strictly on merits in accordance with law. If the case is made out on merits the court may exercise its discretion and if no case is made out on merits the court shall reject the plea for regular bail or anticipatory bail as the case may be. However, in any circumstances the High Courts or trial courts shall not pass a conditional order of regular bail or anticipatory bail.”

9. In view of the law laid down by the Hon’ble Supreme Court in the case of *Gajanan Dattatray Gore (supra)*, the bail condition no. 2(d) imposed by order dated 29th April 2025, would not be sustainable.

10. Condition no. 2(d) imposed vide order dated 29th April 2025 in Criminal Bail Application No. 226 of 2025 is set aside. Rest of the conditions in the order dated 29th April 2025 passed in Criminal Bail Application No. 226 of 2025, shall remain unaltered and continue to operate.

11. Criminal Application No. 824 of 2025 is allowed in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

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by GITALAXMI
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KOTAWADEKAR
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