

Laxmi Sontakke
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1857 OF 2025

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Salman Salim Khan

.. Applicant

Versus

The State of Maharashtra

.. Respondent

.....

- Mr. Dinesh Patankar Advocates for Applicant.
- Ms Mahalakshmi Ganapathy, APP for the State.
- S. D. Patil, PSI, Shivaji Nagar Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 05, 2025

P.C.:

1. Heard Mr. Patankar, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent - State.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking Bail in connection with C.R. No. 289 of 2016 registered with Shivaji Nagar Police Station for offences punishable under Section 307 of IPC.

3. The Applicant in the present case has been arrested on 11.03.2025 on the trial Court issuing a non-bailable warrant against him for not attending the trial Court and for breach of bail conditions which were granted by the trial court when he was enlarged on bail.

4. It is seen that Applicant was indicted in the crime under Section 307 of IPC and he was enlarged on bail by order dated

20.12.2016. The said order is appended as Exhibit-B at page No. 13 of the application. The matter before trial Court was listed for framing of charges repeatedly and Applicant did not remain present. One of the grievance which was advanced before the trial Court was that Applicant was not aware and did not have knowledge about the trial or date of hearing as he had lost contact with his previous Advocate and had gone to his native place for long. Whatever may be the reason, the Applicant being an accused under trial person was released on bail with attending conditions and breach of those conditions were in fact considered by trial Court while rejecting his bail application when he approached the trial Court.

5. One of the issue noted by the trial Court while rejecting his bail application is that he continued to remain absent and in that view of the matter, there was delay in framing of charges. The trial Court observed that Applicant accused is a resident of Govandi which is at the distance of 50 minutes from the trial court, despite which, he was attending the trial Court leading to cancellation of his bail order and issuance of nonailable warrant against him. The trial court has opined that possibility of Applicant not making himself available for trial cannot be ruled out.

6. Learned Prosecutor has argued that the Court should consider the fact that even in the year 2019 Applicant was

reprimanded for similar conduct as record reflected that due to his absence at that time NBW was issued against him but since he appeared in the afternoon session on that date, NBW was cancelled. She would submit that when the said NBW was cancelled, Applicant was given a warning by the presiding officer despite which, Applicant repeated the same conduct in the year 2024.

7. Learned Advocate for Applicant would submit that Applicant has been arrested and he is now in prison. Considering the fact that order dated 20.12.2016 passed after considering the merits of the matter, Applicant was released on bail. The only ground to hold Applicant responsible is his non compliance with the bail condition. However considering that since 2016 he was on bail, I am inclined to grant the application of the Applicant one last time. In the event the Applicant repeats himself, then the bail order shall stand cancelled as per conditions enumerated herein. The Applicant is directed to ensure that he attends all scheduled dates of hearing before the trial Court after his release on bail in the present matter. The Applicant is directed to ensure that he keeps himself apprised with the dates of hearing and appoints an Advocate and that he shall himself attend the trial court on all dates. In view of the aforesaid observations, the order dated 11th March, 2025 shall stand quashed and set aside resultantly, allowing the application filed below Exhibit-03 before the trial court. In view of the above, the present bail application shall stand allowed on the

following terms and conditions:-

8. Hence, Bail Application is allowed subject to the following terms and conditions:-

(i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount; In the event, if the previous bail bonds submitted by the Applicant are not cancelled, the same are directed to be treated as adequate and continued.

(ii) Applicant is permitted to furnish provisional cash bail of Rs.30,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.30,000/- as directed within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

(iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;

(iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;

(v) Applicant shall attend the trial Court on first Tuesday of

every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;

(vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;

(vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and

(ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

9. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being

uninfluenced with any of the *prima facie* observations made herein above in this order.

10. Bail Application is allowed and disposed.

Laxmi Sontakke

[MILIND N. JADHAV, J.]