



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO. 530 OF 2025

PETITIONER

(In Jail)

Bhaskar s/o Hrushi Nandeshwar,
Aged about 55 years, Occu: Labour,
R/o Post Kokanagad, Ghargaon,
Tal. And District Bhandara.

-VERSUS-

RESPONDENT

State of Maharashtra, through
Police Station Officer, Amgaon,
District Gondia.

Mr. Aditya S. Pande, counsel (appointed) for petitioner.
Ms. H.N. Prabhu, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 09/07/2025

ORAL JUDGMENT :

1. Heard.
2. **Rule.** Rule made returnable forthwith with consent of learned counsels appearing for the parties.
3. By this writ petition, the petitioner has challenged the order passed by the learned Sessions Judge, Gondia, in Sessions

Case No. 41/2022 below Exhibit No. 35. The prosecution case is that the applicant/accused, Bhaskar Nandeshwar, was seeking bail under Section 439 of the Code of Criminal Procedure, 1973, in connection with Crime No.324/2021 registered with police station, Amgaon, District Gondia, under Sections 379, 328, and 411 read with Section 34 of the Indian Penal Code. The accused was arrested on 21/11/2021. While considering the bail application, the Sessions Judge has considered that the applicant came to be arrested on 21/11/2021 since then, he has been in jail. Now, the investigation is completed and charge-sheet is filed. The trial Court has also considered that the accused is a habitual offender, and the offenses are registered against him at Police Station Ramnagar-Chandrapur, Nainpur (M.P), and Police Station Tumsar. Thus, considering the criminal antecedents, the Sessions Judge has directed that he shall be released on bail on furnishing P.R. Bond of Rs. 75,000/- with one solvent surety in the like amount in Crime No. 324 of 2021.

4. By preferring this writ petition, the petitioner has challenged the said order with the contention that the offenses punishable under Sections 379 and 411 are not punishable with

imprisonment for more than seven years. The condition imposed by the Court is an onerous condition, and without assigning any reason, that condition is imposed by the court.

5. Heard learned counsel for the petitioner as well as learned APP for the State, who supported the order passed by the learned Sessions Judge.

6. It is well settled that while considering bail applications, Section 437(3) of the Code of Criminal Procedure, 1973, allows the courts to impose conditions in the interest of justice. However, such conditions shall not be arbitrary or extend beyond the ends of provision.

7. The Hon'ble Apex Court in the case of *Kunal Kumar Tiwari alias Kunal Kumar vs. State of Bihar and anr, reported in (2018) 16 SCC 74*, wherein it is held that there is no dispute that sub-clause (c) of Section 437(3) of the CrPC allows courts to impose such conditions in the interest of justice, but it should not be arbitrary.

8. In another case, *Parvez Noordin Lokhandwalla vs. State of Maharashtra and Anr, reported in (2020)10 SCC 77*, wherein also, the provisions of Section 437(3) of the Cr.PC. were

considered by the Hon'ble Apex Court, and it was held that grant or refusal of bail is entirely within the discretion of the judge hearing the matter, and though that discretion is unfettered, it must be exercised judiciously.

9. The Hon'ble Apex Court in the case of ***Ramesh Kumar vs. State of NCT of Delhi, reported in (2023)7 SCC 461***, wherein also the aspect is considered while considering bail applications, conditions can be imposed, but the said conditions should not be arbitrary.

10. In the light of the facts and circumstances of the case and the law laid down by the Hon'ble Apex Court, here the condition of executing the bond of Rs. 75,000/- is definitely an onerous condition, and without assigning any reason, the said condition is imposed. In view of that and in view of the law laid down by the Hon'ble Apex Court, the writ petition deserves to be allowed. In view of that, I proceed to pass the following order.

ORDER

a] The Writ Petition is **allowed**.

b] The condition imposing bond of Rs. 75,000/- is

hereby quashed and set aside.

- c] The petitioner is directed to execute the PR. Bond of Rs. 25,000/- with one solvent surety in like amount, subject to the condition that he shall furnish his detailed address along with the address proof, and his cellphone number, and the name and address of two relatives with their address proof.
- d] The fees of the appointed counsel be quantified as per the rule.

Rule is made absolute in the above terms.

[URMILA JOSHI-PHALKE, J.]