



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

Criminal Application (BA) No. 1199 of 2024

Abid Khan S/o Ahmed Khan and another

Versus

State of Maharashtra through Police Station Sadar, Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri V.R.Nayak, Advocate for the applicant.

Shri U.R.Phasate, APP for the non-applicant/State.

CORAM : G.A.SANAP, J.

DATED : 9th JANUARY, 2025.

Heard the learned advocate for the applicants.

2. Applicant No.1 is accused no.2 and the applicant no.2 is accused no.5 in Sessions Trial Case No. 642 of 2021. Regular bail was granted to the accused. They failed to appear before the Sessions Court. The first non-bailable warrants issued against them were cancelled on their application. After cancellation of the first non bailable warrants, again they failed to attend the Court, therefore, again the non-bailable warrants were issued. On 21st October, 2024, they were arrested pursuant to the said non-bailable warrants. They applied

for bail before the Additional Sessions Judge, Nagpur. Learned Additional Sessions Judge in the backdrop of the repeated failure on their part to attend the Court, and cooperate the Court in the progressive trial, the bail application was rejected vide order dated 26th November, 2024. The applicants have therefore approached to this Court for bail.

3. Learned advocate for the accused submits that the accused will not repeat the same mistake in future. Learned advocate submits that they may be directed to file undertaking before the Judge for attending the Court regularly. Learned advocate submits that lenient view be taken and they may be released on bail.

4. Learned Additional Public Prosecutor took me to the order passed by the learned Additional Sessions Judge and submitted that on account of failure of the accused to attend the Court, the trial could not proceed. The charge was framed on 1st October, 2022. There are six accused persons in the case. On every date some of the accused are remaining absent.

5. I have gone through the record and proceedings. It is true that accused nos. 2 and 5 have invited this situation. Sufficient opportunity was granted to them to amend themselves. They failed to

comply the order of the Court. Charge has been framed. The case is now ripe for hearing. It needs to be stated that in the crime regular bail was granted to the accused. It is true that there was failure on their part to abide by the conditions.

6. In my view, considering the facts and circumstance, it would be just and proper to enlarge them on bail subject to appropriate conditions. Hence the following order.

- i) Criminal application is allowed.
- ii) **Applicant No.1 – Abid Khan S/o Ahmed Khan** and **Applicant No.2 – Mustakin Khan S/o Salim Khan** be released on bail in Crime No. 314 of 2021 registered at Sadar Police Station, District Nagpur in Session Trial No. 642 of 2021, for the offence punishable under Sections 307, 143, 147, 148, 149, 294, 506 of the Indian Penal Code, Sections 3/25, 4/25 and 27 of the Arms Act and Section 135 of the Maharashtra Police Act on their furnishing P.R.Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand only) each with one surety in the like amount.
- iii) They shall file an undertaking before the trial Court that in future they will attend the Court on each and every date.

iv) Remaining conditions of the bail would stand as it is.

v) If the accused fails to attend the Court, except in an exceptional circumstances, learned Judge shall cancel their bail.

vi) It is also made clear that if there is no cooperation from other accused as well, the learned Judge shall cancel their bail.

7. The Criminal Application stands disposed of accordingly.

[G.A.SANAP, J.]