

Order Below Bail Application (Exh. No. 9) in
R. C. C. No. 286/2022.

R. C. C. NO. 286/2022.
Jalgaon Jamod Police Station.
U/s. 354, 354-A, 354-D, 323, 506
of the Indian Penal Code, 1860.

ORDER BELOW BAIL APPLICATION (EXH. NO. 9).

The application is filed under Section 437 of Code of Criminal Procedure, 1973, seeking bail by the accused.

02. Perused the application. Heard the Ld. Adv. A. R. Mankar, for the accused and the Ld. A.P.P. Shri. S. R. Sahu, for the state.

03. In the present case the accused was arrested on 15/09/2022 in connection with Cr. No. 519/2022 registered for an offence punishable U/s. 354, 354-A, 354-D, 323, 506 of the Indian Penal Code, 1860.

04. The accused sought for the bail on the ground that the informant lodged false report against the accused, he has been falsely implicated in the present case, he belongs to reputed family, he is law abiding citizen, he himself surrenders before police after knowing about the F. I. R. lodged against him and the investigation is completed. Hence, there is no necessity to keep the accused person behind the bars. The accused further submitted that, if he will be released on bail he will comply with any terms and conditions. Hence, the applicant (accused person) prayed to allow the application and to release him on bail.

05. The Ld. A.P.P. has filed his say on the overleaf of the application itself and contested the same. He submitted that, the accused committed serious offence and the same is non-bailable, bail application of accused was rejected by this court on merits and thereafter regular bail application was also rejected by Hon'ble Sessions Court, Khamgaon. Also, regular bail application before Hon'ble High

Order Below Bail Application (Exh. No. 9) in
R. C. C. No. 286/2022.

Court was not pressed by the accused. Further, there is an ample material incriminating evidences available against the accused. If the accused is released on bail, the possibility can not be ruled out that, the accused person will pressurize the informant and other witnesses. Hence, the Ld. A.P.P. prayed to reject the application.

06. In bailable offence the accused is entitled to claim the bail. However, in non-bailable offence the grant of bail is always on the discretion of the Court. Section 437 of the Code of Criminal Procedure, 1973, deals with the when bail may be taken in case of non-bailable offence. In the present case the offence punishable U/s. 354, 354-A, 354-D of the Indian Penal Code, 1860, is non-bailable. However, the said offence is triable by the Court of Magistrate.

07. In my opinion even though the offence punishable under section 354 is punishable with imprisonment of 7 years, the said offence is triable by the Court of Magistrate. The other offence is triable by the court of Magistrate. More than three months the accused is behind the bars and the charge-sheet is submitted in the court. As regards the apprehension which has been expressed by the Ld. A.P.P. stringent conditions may be imposed on the accused, so that he will not contact the informant and other witnesses and there will not be any likelihood of breach of public peace and tranquility. As per the law settled by the Hon'ble Apex Court and the Hon'ble High Courts of this country, while considering the bail application, it always to be keep in mind that bail is a rule and jail is an exception.

08. In view of the contentions and submissions I have gone through the record. The investigating authority do not require the accused for interrogation. The investigation of the present crime is completed and charge-sheet filed in the court. Then no purpose will be

Order Below Bail Application (Exh. No. 9) in
R. C. C. No. 286/2022.

served by keeping the accused persons behind the bars. However, considering the nature of offence and the apprehension the following order will meet the ends of justice. Hence, the following order;

:: ORDER ::

- 01.** Application for bail is hereby allowed.
- 02.** Accused Anil Manohar Sonekar is released on execution of P.B. & S.B. of ₹ 15,000/- (₹ Fifteen Thousand Only), subject to conditions that;
 - i) He shall not tamper and hamper the prosecution evidence and witness in any manner. He shall not make any contact with the informant or her children, relatives, directly or indirectly, himself or through his relative, agent, servant, other, in any manner and shall cooperate with the police machinery in investigation whenever required.
 - ii) He is exiled from Kherda Khurd village i.e he shall not visit Kherda Khurd village, Tq. Jalgaon Jamod till further order and local resident place where the informant ordinarily reside.
 - iii) He shall not pressurize the witnesses.
 - iv) The accused shall not leave the territorial jurisdiction of Jalgaon Jamod, without the proper leave of the Court.
 - v) He shall remain present each and every date of the court.
- 03.** The breach of either of conditions by the accused persons will entail the cancellation of bail.

Date: 07/12/2022.

(C. M. Kharkar)
Judicial Magistrate F.C, (Court No. 2)
Jalgaon Jamod (MHBU09-3003)