

B. A. No.4483/BA/2025

CNR No.MHMM18-017139-2025

C.C. No.1100/Pw/2022

C.R.No.196/2019 of Vakola PS.

ORDER ON THE BAIL APPLICATION FILED BY THE ACCUSED

1. This is an application filed by the accused SALIM MUSA KHAN for granting bail. According to him, he has not committed any offence, as alleged. He has been falsely implicated in false offence. he is ready to abide every conditions imposed by the court. It is contended that, due to illness he could not present before the court. It is contended that, he is permanent resident of Mumbai. Therefore, not likely to be abscond if release on bail. Lastly, he prayed that, application be allowed and he be released on bail.

2. The say of informant and Ld. A.P.P for the State has been called. Accordingly the informant Aftab Charoliya through his Ld. Advocate present before the court and filed his reply contending that, accused had cheated the informant for ₹.1.25 crore. It is contended that, the Hon'ble Sessions Court has granted first regular bail to accused on 09/05/2019. Accused have violated the conditions of the bail order, therefore, the informant filed application for cancellation of bail before Hon'ble Sessions Court and accordingly Hon'ble Sessions Court cancelled the bail of accused.

3. Further it is contended that, despite of cancellation of bail order against him accused produced before the this court under the execution of Warrant. However, this court on 03/08/2023 released accused No.1 on P.R and S.B. of ₹.10,000/-. The informant against the said order approached to Hon'ble High Court and the Hon'ble High Court by order dated 21/10/2024 pleased cancelled the bail granted to present accused.

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4. It is further contended that, there are 7 criminal cases registered against accused No.1 in Mumbai. Accused is habitual offender. The previous bail have been cancelled by the Hon'ble High Court. The accused is absconded for morethan 14 months and proclamation has been issued against the present accused. Lastly, informant prayed that, application be rejected.

5. Ld. A.P.P. Shri Joshi for the State has filed his reply in consonance to the reply of informant and in addition to that, it is contended that, despite of order of Hon'ble Apex Court accused has not filed the regular bail application before the court and was continuously absent. The police reports shows that, in order to avoid the execution of NBW accused concealed himself and continued to change his residential address. On 28/01/2025 the proclamation as per provision of section 82 and 83 of Code of Criminal Procedure came to be issued. Thus, according to Ld. A.P.P. Shri Joshi for the State accused is not entitled to released on bail and prayed for rejection of the application.

6. Perused the record. The Vakola police have filed the chargesheet against accused under section 420, 465, 467, 468, 471 r/w.s. 34 of Indian Penal Code. It further reveals that the previous bail order granted in favour of accused have been came to be cancelled by the Hon'ble Sessions Court, as the accused No.1 Salim Musa Khan failed his comply with the conditions of the bail orders. Thereafter, the NBW came to be issued against accused and Vakola police on 03/08/2023 arrested the accused under the execution of said NBW and produced before the court. However, on that day the accused Salim Musa Khan has suppressed the fact that, his bail order has been came to be cancelled by Hon'ble Sessions Court and he got the bail.

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7. Thereafter, the informant against the said order approached before the Hon'ble Sessions Court and Hon'ble Sessions Court upheld the bail order passed by this court. Then the informant against the said orders went in Hon'ble Bombay High Court and filed the application No. 70/2024, wherein on 21/10/2024, the Hon'ble Bombay High Court pleased to cancell the bail granted to accused Salim and directed him to surrender before concerned Magistrate within one week, failing which the police shall take appropriate steps. Further the Bombay High Court in said order have granted liberty that if accused Salim is arrested he may take recourse to such remedies as available in law.

8. Thereafter, accused Salim by way of special leave petition approached before the Hon'ble Apex Court and in petition for special leave to appeal (Criminal) NO. 17106/2024. The Hon'ble Apex court disposed off the said special leave petition by reserving liberty to accused Salim Khan hearing to seek for regular bail in case of necessity. The Hon'ble Apex court further order that, if an application for regular bail is made by petitioner herein, the same shall be considered on it's own merits as expeditiously, as possible and in accordance with law and without being influence by the impugned order, which has cancelled the bail.

9. Ld. Advocate Shri Prajapati for accused submits that, though liberty was granted by Hon'ble Apex Court to file the regular bail. However, accused was in depression due to death of his wife which occurred in the year 2022. it is further submitted that, accused Salim was ill therefore, he was not in state to attend the court and therefore he could not attend the court. He further submits that, the chargesheet

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is already submitted. Therefore, no reason to put the accused behind the bars. Further, he submits that, accused is abide by every conditions which would be imposed by the court, he would regularly attend the court. Lastly, he prayed that, application be allowed and accused be released on bail.

10. Per contra, Ld. Advocate Shri Kamble appearing on behalf of informant submits that, the order of cancellation of bail passed by Hon'ble Bombay High Court in Application No.70/24 dated 21/10/2024 is not at all set aside by Hon'ble Apex Court. He further submits that, in bail application the accused has not mentioned the orders of previous bail applications and by suppressing material facts from the court filed the present bail application. Lastly, he prayed that, application be rejected.

11. Ld. A.P.P. Shri Joshi for the State submits that, opportunity given by Hon'ble Apex Court to file the regular bail. However, the accused has not availed the said opportunity and continuously remained absent therefore, the court proceeding has been protracted. He further submits that, considering the conduct of accused he is not entitled to release on bail and prayed for rejection of bail application.

12. I would like to state here that, without touching and without influencing to the order of cancellation of bail the present bail application as per the direction of Hon'ble Apex Court needs to be taken into consideration.

13. The offence against accused is non-bailable. The chargesheet has been filed in the year 2022. Further, the charge against accused came to be framed on 04/08/2023. However, latter on accused Salim Musa Khan remains absent from trial. Thereafter, after passing

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the order of Hon'ble Apex Court on 20/01/2025, Ld. Advocate Shri Therde filed the exemption application which came to be rejected observing that, already NBW against accused Salim Musa Khan is pending. Meanwhile, on 28/11/2024 Vakola police have filed the report in pursuance to the execution of NBW against accused and submitted that, accused not at all found on his residential address. His mother Jaibunisa Khan was present and she told that, accused Salim had been to Delhi. The said report further contended that, accused continuously changing his residential address and concealing himself. The report further shows that, the accused is not used to reside on his residential address, therefore, the warrant could not be executed.

14. Thereafter at the instance of informant on 18/08/2025 order regarding reissuing of proclamation against accused as per provisoin of section 82 and 83 of Cr. P. C. came to be passed and informant was directed to submit the revenue record of properties belonging to accused Salim.

15. On 06/12/2025 in pursuance to the proclamation under section 82 of Cr. P. C. accused came to be arrested and produced before the court. Thereafter, the present bail application came to be filed.

16. It is to be noted that, since after order of Hon'ble Apex Court the accused Salim expected to file the regular bail within reasonable time however he di d not take any pains to avail said remedy granted by Hon'ble Apex Court. The accused from the police report appeared that, concealed himself in order to avoid the trail of the case

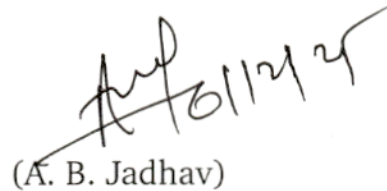
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in the result, since last two years the matter is pending at same stage without any progress.

17. Ld. Advocate Shri Prajapati submits that, accused is ill therefore, by taking lenient view he may be released. However, no documentary evidence or any medical certificate in support of his contention is filed on record. Further, in bail application the accused has not mentioned the facts about the bail orders passed by the Courts. Therefore, considering the conduct of accused it appears that, he is avoiding to face the trial and concealing himself. Further, he is deliberately changing his residential address so that NBW or proclamation could not be effectively executed. In such circumstances I am of opinion that, accused is not entitled for released on bail. Therefore, I proceed to pass following order.

ORDER

1 Application is rejected.



(A. B. Jadhav)

Judicial Magistrate, (First Class),
71st Court, Bandra, Mumbai.

Date : 06/12/2025.

Date : 06/12/2025.

SRD

Dictated on :- 06/12/2025.

Transcribed on :- 06/12/2025.

Checked on :- 06/12/2025.

Signed on :- 06/12/2025.