

RCC No. 41/2018
State Vs. Sushil
MHAK060004852018

ORDER
(Below Exh.15)
(Passed on 06th March, 2026)

This is an application by accused to enlarge him on Bail u/s. 437 of the Code of Criminal Procedure, 1973 (*for short hereinafter referred as 'Cr.PC, 1973'*).

2. It is submitted on behalf of the accused that the accused was earlier released on bail but did not remain present. Hence, he has been rearrested under warrant. However, the offence leveled against the accused is having punishment for the term of two years only. Charge sheet is already filed. The accused is ready to furnish the surety. Nothing is remained to be seized from the accused. The investigation is already over. Therefore, no purpose would be served by keeping the accused behind the bar. The accused is respectable person having reputation in the society. Hence, it is prayed to release him on bail.

3. Per contra, Ld. APP for the State filed Say overleaf the application contending that the accused after bail was absent since many days and he has been brought before the Court by way of warrant. If accused is again released on bail he will again remain absent, culminating in

pending of the case. Hence, it is prayed to reject the application.

4. Heard both the sides at length. Perused the application, Say and documents on record.

5. Admittedly, the accused is today brought before this Court in execution of Non-bailable warrant (Exh.12). Perusal of record reveals that the accused is alleged to have committed offence punishable u/s. 21(1) and 21(2) of the Mines and Minerals (Development and Regulation) Act, 1957 (*for short hereinafter mentioned as the Act, 1957*).

6. Section 21(1) of the Act, 1957 provides that whoever contravenes the provision of sub-section (1) or sub-section (1A) of Section 4 of the Act, 1957 shall be punishable with imprisonment for a term which may extend to five years and with fine which may extend to Rs. 5,00,000/- per hectore of the area.

7. Section 21(2) of the Act, 1957 provides that any rule made under any provision of this Act, may provide that any contravention thereof shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs. 5,00,000/- or with both and in the case of a continuing contravention, with additional fine which may extend to Rs. 50,000/- for every

day during which such contravention continues after conviction for the first such contravention.

8. The aforesaid provisions makes it abundantly clear that the offence levelled against the accused is serious one.

9. Section 30B (1) of the Act, 1957 provides that the State Government, may for the purpose of providing speedy trial of offences for contravention of the provisions of sub-section (1) or sub-section (1A) of Section 4, constitute, by notification, as many Special Courts as may be necessary for such area or areas as may be specified in the notification.

10. Sub-section (3) of Section 30B of the Act, 1957 provides that a person shall not be qualified for appointment as a judge of such Special Court unless he is or has been a District and Sessions Judge.

11. Section 30C of the Act, 1957 further provides that for the purpose of the provisions of this Act, the Special Court shall be deemed to be a Court of Session and shall have all powers of Court of Session.

12. Therefore, the offences levelled against the accused appears to be exclusively triable by the Special Court i.e. Court of Hon'ble Sessions Judge.

13. The Hon'ble Supreme Court in the case of **Pralhad Singh Bhati Vs. NCT Delhi, 2001 SCC OnLine SC 575** has held that Magistrate generally lacks jurisdiction to grant bail for offences exclusively triable by Court of Sessions. Therefore, without touching to the merits of the application, I am not inclined to grant bail to the accused as prayed. Hence, I pass the following order ;

ORDER

The application (Exh.15) stands rejected.

Sd/-

(A.A. Mali)

I/c Judicial Magistrate (F.C),
Akot, Dist. Akola.

Date : 06.03.2026

Place : Akot.