

MHBU010015852024



Bail application in S.T. No.

93/2024

Sandip Dilip Kadam

Vs.

State of Maharashtra

ORDER PASSED BELOW EXH. 28

1) By way of this application the applicant has sought his release on regular bail under Section 483 of the *Bharatiya Nagrik Suraksha Sanhita (BNSS)* with regard to an offence being registered under Sections 395 and Section 120 (B) of the Indian Penal Code vide Cr. No. 49/2024, with Police Station, Andhera.

2) In this case, the earlier bail application was rejected by my learned predecessor vide order Dt. 20.09.2024. This is the second bail application filed by the accused. According to him, the reasons assigned in the earlier bail application for rejection is pendency of various crimes/cases against him in Ahmednagar district under different sections of the Indian Penal Code and terming him to be an habitual offender. According to him, the observations of the learned predecessor are not in consonance with the position prevalent as on date. All the crimes/cases which came to be highlighted by the learned predecessor to have been pending against the accused are either culminated into his acquittal or in one of the crime there being no mention of his name in the FIR. According to

him, the rest of the accused have been released on bail barring the present accused.

3) The application came to be combated by the learned APP by way of filing reply vide Exh. 36, on the count that, an amount of Rs. 1,50,000/- came to be recovered from this accused. Moreover, Rs. 50,000/- came to be transferred from the account of accused into the account of Santosh Maghade. Citing probable abscondance of the accused and he extending possible threats to the witnesses, the prosecution has sought rejection of the bail application.

4) The informant was served and he appears to have caused his appearance. However, it appears from record that no say has been filed by the informant.

5) Heard the learned counsel Shri Mapari for accused no. 7 and learned APP Shri S.P. Hiwale for the prosecution.

6) The accused is arrested for alleged commission crime under Section 395 and Section 120 (B) of the IPC. It is alleged that, when the informant was carrying cash worth Rs. 27 Lakhs belonging to his employer Rajuri Steel Company, on 14.02.2024, the accused and his companion committed the offence of dacoity and fled with the amount which the informant was having with him. Accordingly, the charge-sheet came to be filed. It appears from record that other accused namely Darasing and Nilesh have been

granted bail by this court. It also appears that, the accused has filed on record the judgment and order passed in R.C.S. 1780/2022, Dt. 04.07.2023, R.C.S. No. 125/2024, Dt. 21.08.2024, Sessions Case No. 41/2016, Dt. 05.01.2018, whereby the accused Sandip Dilip Kadam has been acquitted by the concerned courts dealing with the cases. The accused has also filed on record the FIR with regard to Crime No. 753/2021 and claimed that he has not been named in the said FIR and the said FIR came to be lodged for the offence under Section 304-A. As such, the crime number/cases referred by my learned predecessor in the order Dt. 20.09.2024, the accused by way of filing the judgments and order has claimed to have been acquitted. According to the learned counsel, the acquittal of the accused from the cases referred by the courts in the earlier order in fact nullifies the effect of the said observations, since the pendency of cases against the accused was considered to be the paramount cause to reject the bail application.

7) In order to buttress his contention, the learned counsel has submitted that, since the accused has been acquitted from the cases and since no case has been culminated into conviction, the observation of the learned court dealing with the earlier bail application holding the accused to have the criminal antecedent doesn't withstand to the scrutiny of law. I am afraid the contention sought to

be impressed upon by the learned counsel is justifiable in the wake of the observation of my learned predecessor in the order Dt. 20.09.2024. It appears that the learned counsel seems to have lost sight of the observation of my learned predecessor vis-a-vis the role played by this particular accused which is attributed to be major as compared to accused Darasing and Nilesh. While declining to grant bail, this particular observation of my learned predecessor appears decisive in nature. Though, the accused is stated to have been acquitted, however, the fact cannot be denied that he is having criminal antecedents.

8) In the backdrop of the observations above, this court doesn't find any change in circumstances so as to concede to the request of the accused to be enlarged on bail. Rather, any interference in the observations of my learned predecessor rejecting the bail application may tantamount to almost reviewing the earlier order, without there being any change in circumstances in real sense. Hence, the following order.

ORDER

1) The application is rejected.

(**Vinay V. Muglikar**)
Additional Sessions Judge,
Buldhana.

Dt. 15.01.2025.