

Regular Criminal Case No.68-2025
ORDER BELOW BAIL APPLICATION
EXH.7

This is bail application.

2. Heard learned advocate Mr. S.C. Jadhav for accused and learned APP Mr. S.M. Hashmi at length.

3. I have carefully gone through the record, application, say, case and argument. This is police challan for offences punishable under Section 118(1), 118(2), 115(2), 352, 351(2) r/w 3(5) of Bharatiya Nyaya Sanhita. The accused had not been arrested. They had been released on notice under Section 35(3) of the Bharatiya Nagarik Suraksha Sanhita during investigation. There is no special reason or exceptional circumstances to take the accused in custody and remand in jail. All offences are triable by this Court. Therefore, the bail application can be considered under Section 480 of the Bharatiya Nagarik Suraksha Sanhita.

4. The Hon'ble Bombay High Court in case of Mr. Ishant Vasant Deshmukh Vs. State of Maharashtra, Cri. Application No.4258/2010 and 511/2010 held that,

“The reasoning applies with equal force in interpreting the phrase offence punishable with death or imprisonment for life so long as an offence under section 326 is triable by a Magistrate of the First Class there is no reason why it should be viewed differently in the matter of granting bail from an offence under Section 420, I.P.C. for which the punishment extends imprisonment for 7 years or any other non-bailable offence for which the punishment is a term of imprisonment.

It would be illogical and incomprehensible to say that the magistrate who can hold the trial and pass judgment of acquittal or conviction for the offences punishable with sentence of life imprisonment or lesser term of imprisonment, for example in offences under section in offences under section 326, 409, 467, etc, cannot consider the application for bail in such offences. In fact, it appears that the restriction under Sec.437(1) (a) is applicable only to those cases which are punishable with death sentence or life imprisonment as alternative sentence or life imprisonment as alternative sentence. Even though there is no legal bar for a Magistrate to consider an application for grant of bail to a person who is arrested for an offence exclusively triable by a Court of session, yet it would be proper and appropriate that in such a case the Magistrate directs the accused person to approach the Court of Session for the purposes of getting the relief of bail.”

5. Accordingly, the Magistrate has power to entertain the bail application for offence punishable with imprisonment for life. Hence, an argument of learned defence advocate is acceptable. There is no need of further personal interrogation of accused. The bail is rule and jail is exception. Thus exception is not established in this case. No purpose will be served by keeping the accused behind bar. The accused is ready to abide conditions. This is fit case to enlarge the accused on bail. The accused is entitled to bail. Hence, I pass following order:-

-:: ORDER ::-

1. The application is allowed in the interest of justice.
2. The accused persons shall release on bail subject to following conditions in the interest of justice.
 - a) The accused shall execute personal bond of Rs.25,000/- each and furnish surety bond in the like amount.
 - b) The accused shall proceed with case expeditiously.
3. Order dictated on computer and pronounced in open Court.

Date : 11/09/2025.
Deoni.

(S. A. Surjuse)
Judicial Magistrate First Class,
Deoni.