

MHND190008922022

**ORDER BELOW EXH.111 IN RCC 97/2022**

1. This is an application under Section 437 of Crpc and 480 of BNS for releasing the accused on temporary bail. The application is filed by Ld. Advocate for accused No.1 Satyendra Mishra who is under trial prisoner. The application is not supported with any affidavit.

2. Before moving to the application it is important to note that the case is pending for recording evidence of PW-1 and cross examination is expected to be taken by Ld. Advocate representing the accused No.3 in this matter. In the present case the accused No.1 is behind the bar from 15.12.2022. As per para No. 4 of the present bail application it is clear that the applicant had preferred the Bail Application No. 1298/2022 before the Hon'ble High Court Bench at Aurangabad and application was withdrawn with order dated 21.09.2022 due to change of circumstances with is filing of Chargesheet. The applicant had sought liberty from Hon'ble High Court to file bail application before this Court. The present application has not made clear what course he has taken after withdrawing of the application in the Hon'ble High Court Bench at Aurangabad.

3. The Record reveals that the applicant Satyendra Mishra had filed an application for bail as per Section 437 of Crpc the application was decided by the then Ld. Presiding Officer on 07.10.2022 whereby the application for his release stood rejected. Therefore, the applicant thereafter moved to Kandhar Sessions Court at Kandhar, Dist. Nanded. Hon'ble District Sessions Judge, Kandhar Dist. Nanded vide order dated 15.12.2022 passed order below Exh.01 in Cri. Bail Application 185/2022 whereby the bail application rejected and being aggrieved by the said order he moved an bail application bearing No. 43/2023 in the Hon'ble High Court Bombay Bench at Aurangabad. On 23.03.2023 Hon'ble Hight Court was pleased to allow the bail application wherein he was asked to deposit 20 Lacs before the trial Court before furnishing the bail and surety bond of an amount of Rs 1 Lacs. The applicant was also asked to deposit 10 Lacs before trial Court within 45 days from the date of his released on bail. It is further ordered that if he would not deposit the remaining amount of Rs. 10 Lacs the bail would automatically stand cancelled.

4. It is important to note that the Ld. Counsel for the applicant had expressed his willingness to deposit Rs. 20 Lacs at the time of furnishing bail and remaining 10 Lacs after 45 days of his release. After this application being allowed on certain conditions the applicant Satyendra Mishra again moved an application under Section 167(2) of Crpc for grant of default bail on 04.03.2024. The said application was decided by the my Ld. Predecessor and the same was rejected on 16.05.2024. It is important to note that by that time the Charge was

framed in this case against all accused on 27.06.2022 vide Exh. 13. The Ld. Advocate for the accused sought adjournment on 19.09.2024 on ground of he suffering from Chikanguniya. He again filed an application on 30.09.2024 seeking time to differ the cross examination by him till next date. The said application was allowed inspite of witness being absent. On 11.10.2024, on 24.10.2024 the Ld. Advcoate for the accused No.1 was absent. Meanwhile, the cross examination of witness No.1 was recorded and the case pending for further cross examination of witness by Ld. Advocate for accused No.3.

5. The present application is filed on humanitarian ground of his mother being serious on account of brain hemorrhage. The application runs into 15 pages out of which pragraph 1 to 8 deals with the background of the case and how the witness and the prosecution is delibrately prolonging the trial by not attending the Court. Para 8 of the application states that mother of the applicant is very much serious and is in coma and is counting her last breath. Hence, sought to release the accused/applicant. Para No. 13 states that the accused may be released on bail to take care of her mother and to spend some time with her. It is further stated that documents of medical papers can be verified in that respect. He further mentioned that temporary bail is filed for the treatment of his mother and making him to meet her. It is important to release the accused for betterment of health of his mother. In para No. 17 of the application he aggrieved to abide by the all the conditions imposed by the Court and sought to allow his application and grant temporary bail for 60 days in connection with C.R. No. 39/2022 and Rcc No. 97/2022.

6. The say of Ld. App on this application has been called. Today Ld. App filed his say vide Exh. 114 on separate page. Heard Ld. Advocate Shri. A.H. Gurunasinghani for accused No.1 and Ld. App Shri. S.S. Patil for prosecution. Perused the record. Perused documents submitted by Ld. Advocate for accused and perused citations so produced.

7. It is the case of the accused that the present application is filed on humanitarian ground of the illness of his mother. The said application should be considered on different footing from regular bail application and he should be released for 60 days. The application mention that the mother is in Coma. However during the arguments Ld. Advocate for accused No.1 stated that the mother has been brought home and pursis to that effect has been filed vide Exh.118. He has further stated that the release of the accused is important for betterment in health of his mother. He also mentioned that this is not seeking a regular bail but he seeking bail on humanitrian ground. Hence, the say of Ld. APP regarding disobedience of order of Hon'ble High Court in respect of payemnt of 30 Lacs should not be taken into consideration here. He also mentioned the accused is behind bar from 15.04.2022 i.e. from last 3y 1m 5 days. He has not seen his mother for a such a long time. The accused has poor economic condition and on humanitarian ground the bail should be allowed. He furhter mentioned that the prosecution should not unnecessarily raise the objections on such ground. It is also mentioned that Hon'ble High Court has granted bail however the accused is not in condition to fulfil the condition by depositing the amount that is mentioned in the order. This can not be consider as disobedience of the

order of the Hon'ble High Court. Hence, such ground should not become bar for grant of present application. With this Ld. Advocate representing accused No.1 has prayed to release the accused for period of 60 days or less on temporary bail.

8. On the other hand Ld. APP for the State has taken reference of the order of Hon'ble High Court and stated that such disobedience by the accused should be taken in to account and the present application be rejected.

9. The present Chargesheet is filed under Section 420, 468, 471 rw 34 of IPC. The Charge is framed vide Exh.13 under the same sections. The background of the case has been already mentioned above. It is seen that various attempts had been made by the accused for release on bail. It is important to note that while passing order on 23.02.2023 the Ld. Advocate representing the accused No.1 has showed his willingness to deposit the amount of Rs 20 Lacs and 10 Lacs accordingly. It is also important to note that recently an order dated 09.04.2025 passed by Hon'ble Bombay High Court Bench at Aurangabad has come on record. The accused has moved application for relaxation of conditions imposed by the Hon'ble High Court on 23.02.2023. However, the Hon'ble Court has seen that Ld. Advocate for the applicant had expressed his willingness to deposit the 20 Lacs before furnishing bail and remaining 10 Lacs within 45 days of his release. It is clear from the order passed by the Hon'ble High Court that on 23.02.2023 an undertaking was considered by Hon'ble High Court and it ordered to deposit 20 Lacs and 10 Lacs respectively. Therefore, the Court preferred not to relax the condition with respect

depositing of an amount. However, the Court ordered and relaxed the conditions regarding furnishing P.R.bond of Rs 1 Lacs and thereby the P.R. bond was reduced from 1 Lacs to 10 thousand with surety in like amount. The Hon'ble High Court was pleased to keep rest of the conditions intact in respect of payment of deposit and no change was made.

10. In the present application applicant has stated that he is seeking bail on humanitarian ground of illness of his mother. From perusal of the application it is seen that the applicant has failed to mention name of his mother. The application anywhere mentions the name of his mother. The Applicant has submitted one paper which shows that a person namely Prabhavati Devi is ill. However, this Prabhavati Devi is connected with accused Satyendra Mishra and whether she is biological mother of accused No.1 is not made clear. No document is provided to show the nexus between accused No.1 and Prabhavati Devi. The applicant has submitted photograph of one lady sleeping on bed. However, whether she is Prabhavati Devi or somebody else has been not made clear. The applicant could have mentioned the name of his mother in the application. However he failed to do so for the reason known to him. The applicant could have brought the document on record showing Prabhavati Devi is the name of his mother but the same is not on record. The Application bearing serial No. 10 shows that C.T. Scan Head of Prabhavati Devi the impression shows that there is age related Brain Parenchymal Atrophic Change. This refers to loss of brain tissues and brain cells. There are two types of brain hamorrge and same can be normally occur on account of ageing. The

report shows age of the present lady is 66 years. Hence, brain atrophy so suffered by her is related to age.

11. Ld. Advocate for the applicant has brought on record one paper cutting of *Times of India* and the same can not be considered. The Ld. Advocate relied upon order of ***Hon'ble High Court in Nandkumar Pandurang Ghadge Vs State of Maharashtra 2007 ALL MR (Cri) 658*** wherein on humanitarian ground of advanced stage of pregnancy wife of accused was considered and he was released for one month. However, the case stands on different footing and is not helpful for the applicant. The Ld. Advocate has relied upon the order ***Hon'ble Supreme Court of India in Yug Ravendrapal Singh Tuli Vs State of Maharashtra in Cri. AP. 9685/2018 dated 24.10.2018***. Wherein the accused was released on temporary bail. The said temporary bail was granted on the ground that the regular bail application filed by the accused was not taken board by the High Court for last 11 months. In this case in hand the bail application of Satyendra Mishra is already granted and he has failed to comply the conditions. Hence, this case is also not helpful to him. Ld. Advocate has relied upon order of ***Hon'ble High Court of Kerala in Bail Application No.5215/2023 decided on 07.07.2023*** wherein the accused was released on bail on account of illness of his mother. In that case the accused was convicted. The bail was granted on certain conditions. One of the condition was surveillance by local police. However, the case will also not prove to be helpful as the accused is from Varanasi, U.P. He has committed crime which comes under the jurisdiction of Malakoli Police Station Tq. Loha Dist. Nanded. Hence, it is very difficult to consider said conditions if any. Meanwhile, the applicant

had already tried to various times by filing various applications for release on his on bail. The applicant had already filed an application for relaxation of conditions of the bail granted to him by Hon'ble High Court. However, the honble High Court has only relaxed condition of surety from 1 Lacs to 10 Thousand without changing other conditions of depositing the amount of Rs. 30 Lacs and the said conditions are kept intact by Hon'ble High Court.

12. In view of above discussion the application being devoid of merit is not entitled to be allowed. Hence, I pass the following order.

Order

The application stands rejected.

Place: Loha
Date: 20.05.2025

(Smt. P. V. Chidre)
Judicial Magistrate F. C. Loha.

CERTIFICATE

I affirm that the contents of this P.D.F. file judgment/order are same word to word, as per the original judgment/order.

Name of Stenographer	:	Amol U. Kare
Court Name	:	Jt. Civil Judge Jr. Div., & Judicial Magistrate, F. C., Loha, Tq. Loha, Dist. Nanded.
Date	:	20.05.2025
Judgment/Order signed by the Presiding Officer on	:	20.05.2025
Judgment/order uploaded on	:	20.05.2025