

SESSIONS CASE NO. 175 OF 2021
(CNR No. MHNS070021522021)

The State of Maharashtra .. Complainant

Vs.

Mohammad Raza @ Shera Rahees
Ahmed .. Accused no. 2

ORDER BELOW EXH. 106

Vide present application, accused Mohammad Raza @ Shera Rahees Ahmed seeks release on bail, contending that in the year 2022 while this accused was travelling from Mumbai to Malegaon on a motorcycle, had met with an accident and was bed-ridden for pretty long time, under treatment. Further contended that in the year 2023, his father was diagnosed with throat cancer and the elder brother of this accused, as was in Qattar, therefore, this accused had to attend his father. It is further contended in the application that accused's brother-in-law (sister's husband) Mobin Ahmed Nisar Ahmed, r/o. Dhule, was also diagnosed with mouth cancer and for that, this accused had to attend him also at Dhule.

[2] Ld. Advocate for the accused submits that therefore only this accused could not attend the Court, resulting into non-bailable warrant been issued against him and this accused gets arrested from Dhule.

[3] It is vehemently contended that this accused was never absconding in the interregnum and had rather even preferred an anticipatory bail application no. 980/2023 in Sessions Court, Malegaon in respect of C. R. no. 260/2023 registered at Pawarwadi Police Station thus, this accused was not absconding and was very well within Malegaon city, at the relevant time.

[4] Further contended that accused is a permanent resident of Malegaon city, but had to go to Dhule, but was not absconding, undertakes to cause attendance at concerned police station, if directed. Accordingly, contended that this accused be released on bail, from his arrest, pursuant to execution of non-bailable warrant.

[5] Said application is resisted by filing say at Exh. 109 and the Ld. APP vehemently submitting that this accused was released on bail by the order dated 12.07.2022, passed by the Hon'ble High Court, Bombay, in Bail Application no. 200/2022, in respect of the present matter. It is contended that thereafter, this accused absconded and did not attend this Court for facing trial.

[6] Ld. APP further contends that this accused could not be arrested, inspite of warrants been issued against him. Further submitted that upon receiving secret information, this accused could be arrested from Dhule. Further contended that this accused has got similar criminal antecedents and the role of this accused in the present matter is of having hatched conspiracy alongwith co-

accused, for committing murder of victim, in this offence. It is contended that sections 34, 120-B and 149 of the IPC, are invoked in this offence.

[7] Further contended that in case, accused is released on bail, he shall abscond again, thereby protracting the trial. Accordingly, contended for the present application to be dismissed.

[8] Upon perusal of the bail application, the say filed and the entire Record and Proceedings of this case, it appears that this accused, named in the FIR, was released on bail, vide order dated 12.07.2022 passed by the Hon'ble High Court, Bombay in Cri. Bail Application no. 200/2022. The said bail order inter-alia had conditions of the accused to attend regularly the proceedings, before the jurisdictional Court. The said order inter-alia directed the release of accused on his furnishing P.B. S.B. to the extent of Rs. 30,000/-.

[9] Perusal of the Record and Proceedings would reveal that this accused is not attending the Court to face trial, atleast since 02.07.2024, and therefore, non-bailable warrant was issued against him. Thereafter, for few dates of hearing, warrant execution report was awaited. Roznama dated 05.02.2025 reveals of the N.B.W. issued against this accused was received 'unserved', therefore, N.B.W. was again issued against this accused. Even thereafter, as this accused did not attend the Court nor any report was forthcoming in his respect, hence, N.B.W. was re-issued

against him, vide order dated 11.06.2025. Thereafter, this accused was arrested under execution of the N.B.W. issued and now present bail application. It would also be pertinent that framing of charge got delayed on this count.

[10] Present bail application seeks the release on bail of this accused on the grounds of he being held up in attending his father and then his brother-in-law, both diagnosed with cancer ailment. Further perusal of the documents submitted indeed reveals of this accused having preferred an anticipatory bail application being Cri.B.A. No. 980/2023, in Sessions Court at Malegaon. No doubt, said bail application was rejected. However, it reflects of some short comings of the police machinery to execute the N.B.W.s issued against this accused in such pending matters, as this accused had been before the Sessions Court, Malegaon, praying Anticipatory bail in another offence.

[11] It is further pertinent that on factual aspects of the case, this accused has been released on bail, vide order dated 12.07.2022 passed by the Hon'ble High Court, Bombay, in B.A. No. 200/2022, inter-alia on the conditions that this accused shall regularly attend the proceedings before the Jurisdictional Court and also subject to P.B. S.B. of Rs. 30,000/-. In spite of such conditions, this accused did not attend the Court proceedings, he did not bother to even intimate his exigencies, atleast to the Ld. Advocates representing him. Moreover, Roznama bears that atleast thrice N.B.W. were issued against him and he could be arrested on

third warrant. This accused did not even bother to appear in the interregnum and get cancelled the warrants issued against him. Accordingly, this accused has not even been responsible for framing of charge to be delayed, but has also breached the conditions of the bail order, in his favour passed by the Hon'ble High Court, Bombay, for which he has even executed personal bond and furnished surety.

[12] In view of the fact that this accused was released on bail by the Hon'ble High Court, Bombay, considering the factual merits, but had failed to attend the trial Court, resulting into issuance of N.B.W. against him, and further been arrested in execution of the N.B.W., hence, for the reasons cited of his absence it appears that the accused can be released on bail. However, in view of the fact that this accused has breached the conditions of the bail order set by the Hon'ble High Court, Bombay, hence, the personal bond of Rs. 30,000/- executed by this accused, in compliance of the order by the Hon'ble High Court, Bombay, would be required to be forfeited and this accused would be required to furnish fresh personal bond and surety. Hence, the following order.

ORDER

(1) Application (Exh. 106) stands allowed and accused is released on bail, in respect of the present case, subject to his furnishing a fresh personal bond and surety to the extent of Rs. 30,000/- (Rs. Thirty Thousand only).

(2) The personal bond executed by this accused, to the extent of Rs. 30,000/- (Rs. Thirty Thousand only), in pursuance to the bail order passed by the Hon'ble High Court, Bombay on 12.07.2022 in Cri. B.A. No. 200/2022 stands forfeited, resultantly, the accused to deposit the said amount of forfeited bond, to the credit of the State.

(3) The accused shall attend this Court on each and every date of hearing of this case.

(Y. H. Ameta)
Additional Sessions Judge,
Malegaon.

Date : 03.09.2025