

Order passed below Exh.33 in Spl.Case No.28/2019

State
Vs.
Waman & Others.

1. This is an application for releasing accused on fresh bail.

2. **The case of the appellant in short is as under :-**

The applicant/accused are agriculturist by occupation. Due to rainy season, agricultural operations of sowing of seeds etc. are in progress. Applicant/accused are poor persons. They have liability to maintain their families. In case they are not released, their family will be put on force starvation. Hence, they prayed for release them on bail with an undertaking to obey each and every order of this court.

3. Police has filed say Exh.36. According to say, accused were earlier released on anticipatory bail. In case of release on regular bail, they will not attend the court. It will result on the progress of the trial. Hence, he prayed for rejection of the bail.

4. On the basis of rival pleadings and documents brought on record, following points arises for my considerations . I have recorded findings of this court against the point for the following reasons.

Sr.No.	Points.	Findings
1	Whether applicants made out case to release applicants on bail ?	.. In the affirmative.
2	What order ?	.. As per final order.

Reasons.

5. Heard both the parties. Perused material on record.

6. Perusal of the record shows that, the applicant Exh.26 is decided by this court on 9/6/2022. following observations were made by this court.

7. On 18/11/2021, accused and their advocates were absent. N.B.Ws. were issued against accused. Notices were also issued to sureties. N.B.W. returned unserved from time to time till the date.

8. On 8/12/2021, the notice of surety received by this court served. Neither accused, nor sureties remain present before the court.

9. On 30/3/2022, this court issued N.B.Ws. and sureties notices, as the inspection notes of this court directed to frame charges. The service report of the N.B.Ws. and surety notices received unserved on 6/4/2022. Again this court reissued N.B.Ws and surety notice through office of the S.P. On 21/4/2022 i.e. the next date, service report thereof were not received by this court. Again on 26/4/2022, this court reissued N.B.Ws and surety notices through office of the S.P.,Osmanabad. On next date, 10/5/2022, service reports were not received by this court. The occurrences were repeated as it is till today.

10. Perusal of the service report shows that, the accused persons were out of station without specifying their current addresses. Notice to surety Bansi Rama Jadhav was served on his son Dhanraj Jadhav on 8/12/2021. Surety notice was also served on Suresh Harkhana on 8/12/2021. However, neither accused nor sureties nor their advocate remained present before the court. Exemption applications were also not given before passing the order of N.B.W.

11. Thus, it appears from record that, it is difficult to secure presence of the accused. Hence, this court was forced by the circumstances to reject the application for cancellation of N.B.W. or releasing accused.

12. These were observations made by this court.

13. However, considering the contents of applications, occupation of the accused persons, rainy season favourable for agricultural occupation of sowing seeds, accused needs to be release on bail. At the same time, considering the observations made in this order, heavy penalty needs to be

imposed so as to secure their presence at the time of trial. Hence, point no.1 is answered in the affirmative.

Hence, this court proceeds to pass following order.

ORDER

- i. Application Exh.33 is hereby allowed.
- ii. Each applicant/accused shall pay amount of Rs.2,000/- as forfeiture of the part of the earlier P.R. bond.
- iii. Each accused shall be released on executing fresh PR bond of Rs. 15,000/- each with one surety of like amount.
- iv. Applicant/accused shall attend this court on each and every date without seeking exemption from attendance except on extra ordinary special circumstance, which could be discretion of this court. Otherwise this bail order shall cancelled automatically.

Date. 30/06/2022.

(D.K.Anbhule)
Addl.Sessions Judge, Omerga.

CERTIFICATE

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

Name of Stenographer		Narhari Haripant Deshmukh Stenographer Grade-1, Dist. Court-1 Omerga.
Court		Shri.D.K.Anbhule Addl.Sessions Judge,Omerga
Date		30-06-2022
Order signed by the Presiding officer on		30-06-2022
Order uploaded on	...	30-06-2022