

**Order below Cri. Bail Application Exh. 60 in
Sessions Case NO. 639/2015**

01] The application is filed under Section 439 of the Cr.P.C. for releasing applicant-accused Rajendra @ Raja Kashinath Wadghare on bail in C.R. No. 81/2015 under Section 395 of the Indian Penal Code registered with Hinjewadi Police Station.

02] The prosecution case is that, on 23.3.2015 at about 1.20 p.m. at Man Road, Hinjewadi, Pune, the present applicant-accused and co-accused by making criminal conspiracy, committed decoity and looted cash of Laxmi Patrol Pump of Rs. 5,43,455/- from the custody of its Manager - First Informant Uttam Kambale while carrying the same to deposit in the Bank on his motorcycle.

Accordingly, FIR was lodged at Hinjewadi Police Station against unknown persons and investigation commenced. During investigation, applicant-accused and co-accused were arrested.

03] The earlier bail application was rejected of this applicant-accused as investigation was not completed.

Now, he is claiming bail as trial has not commenced even though Charge was framed on 26.10.2015.

Therefore, he may be released on bail.

04] The Respondent-prosecution by filing Say (Ex. 61) resisted the same.

05] Heard both the parties. Ld. Advocate for the applicant relied on following authorities :

1) Ibrahim alias Munna Salim Shaikh Vs. State of Maharashtra reported in (1996 CRI. L.J. 1419),

2) Daru alias Dhiru Bhudarbhai Dodiya Vs. State of Gujarat reported in (The High Court of Gujarat at Ahmedabad R/CR. MA/16045/2012)

it is commonly held that :

“Criminal P.C. (2 of 1974) S. 439 – Bail – Case under S. 395 I.P.C. - Accused a hardened criminal and involved in 22 cases – Accused in jail for over 9 years without trial – Held criminal history of accused could not be a sole ground to refuse bail in this case – Bail granted on condition of personal bond and two sureties and on condition that he should report to local police station every alternate day. Constitution of India, Art. 21.”

3) Sanjay Chandra Vs. Central Bureau of Investigation reported in (AIR 2012 SUPREME COURT 830), it is held that :

“Criminal P.C. (2 of 1974), S. 437, S. 439 – Constitution of India, Art. 21 – Bail – 2G Scam case – Detention of under trial prisoners in jail to an indefinite period – Art. 21 of the Constitution is violated – Trial may take considerable time – Accused in jail, will have to remain in jail longer than period of detention, had they been convicted – It is not in interest of justice that accused should be in jail for an indefinite period –

Enlarged on bail. ”

4) Vivek Kumar Vs. State of U.P. reported in [2000 DGLS (SC) 16], it is held that :

“Application for bail – Section 439 – Offence under Sections 394 and 395 read with section 149 IPC – The appellant was in jail since 4.4.1998 and the trial has not commenced – Therefore the accused was entitled to bail.”

06] Perused the investigation papers. The Charge was framed on 26.10.2015. Thereafter, one of the accused Mr. Waghmare absconded and Court had taken steps for securing his presence and therefore trial has not commenced and proceeded. Thus, trial has standstill due to presence of absconding accused. That apart, though applicant-accused is permanent resident of Wanganiwadi, Tal. Velha, District Pune, major part of looted cash amount has been recovered from him and further he is having criminal antecedent. Therefore, if he is released on bail, he is likely to involve in commission of similar offences which are of serious nature. The steps for separation of trial against absconding accused are being taken. In the circumstances, he is not entitle for bail as nature of offence is serious one. With great regard, I mention that the authorities cited supra on behalf of the present applicant-accused are not helpful to him as they turn on different points

than facts of the present application. Hence, I pass the following final order :

ORDER

01] The application is hereby rejected.

Pronounced in open Court.

Date : 16/07/2018

Place : Pune.

X X X

(Dilip G. Murumkar)

District Judge-2 and Addl. Sessions
Judge, Pune.

CERTIFICATE

I affirm that the contents of this P.D.F. file
Order/Judgment are same word for word as per original
Order/Judgment.

Name of Steno : V.S.SONAWADEKAR [H.G.]

Court Name : Shri. Dilip G. Murumkar,
District Judge - 2 & Special Judge,
under Prevention of Corruption Act, Pune.

Date of Order : 16.7.2018
/ Judgment.

Order/Judgment
signed by P.O. on : 17.7.2018

Order/Judgment : 17.7.2018
uploaded on