

The State of Maharashtra Vs. Shivaji @ Vijay Vishwanath Randive

MHPU200032592023



Order Below Exh. 6

The present application is filed by accused No.1 namely **Shivaji @ Vijay Vishwanath Randive** for releasing him on bail as per the provision under section 437 of Code of Criminal Procedure (In short Cr.P.C.).

02. It is stated in the present application that, the accused is booked for the alleged offence punishable under section 420, 465, 468, 471 of IPC. The accused is in magisterial custody since 14.08.2023. The accused is falsely implicated in the present crime. The police machinery got sufficient opportunity to investigate the present matter and for that the accused was in their custody. Now, as the accused is in magisterial custody and the charge sheet is also filed, there is no need of custody of present accused.

03. There are no any criminal antecedent of accused. The accused is resident Mouje-Pargaon-Salomalo, Taq. Daund, Dist.Pune. At the said village he is having his house and immovable property. He resides on the said address alongwith his wife and minor son. If the accused released on bail he will not flee away any where. Furthermore, if accused released on bail he will abide with all terms and conditions which will be imposed by this Court. The investigation is completed. Therefore, it is prayed to grant the bail to the accused.

04. On the other hand, Ld. APP has strongly opposed to the present application by giving his say overleaf of this application. It has stated on behalf of State by the prosecution that the offence is economic, serious and

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non bailable and punishable up to 7 years. The prima facie case is made out against the accused. Hence, prayed to reject the application.

05. I have gone through entire record. It appears that the charge sheet against the present accused is filed on 04.10.2023. It also appears from the record that the present accused is in magisterial custody since 14.08.2023. Thus, it can be stated that, the investigation is completed and hence, the charge sheet is filed on record against the present accused. It appears that the accused is booked for the alleged offence under section 420, 465, 468, 471 read with section 34 of IPC. There are allegations against the accused that, the accused has prepared the false documents of sale deed and thereby committed the alleged offence of cheating and forgery against complainant.

06. The Ld. Counsel for the accused has stated that, as the investigation has completed, there is no need of the custody of present accused. Furthermore, he relied upon the judgment of Hon'ble Supreme Court **Satendar Kumar Antil Vrs. Central Bureau Investigation**. Furthermore he relied upon another judgment **Sanjay Chandra Vrs. CBI** and the judgment of Hon'ble Panjab & Haryana High Court dated 31.08.2022, **Maninder Sharma Vrs. State Tax Officer, State Tax, Mobile wing, Jalandhar Panjab**. I have read the above judgments.

07. In the judgment cited above **Satendar Kumar Antil Vrs. Central Bureau Investigation**, the guidelines regarding granting the bail are given. I have read those guidelines and given my thoughtful consideration. Furthermore, I have read the above cited judgment **Sanjay Chandra Vrs. CBI** wherein it is observed that, in deciding bail application an important factor which should certainly be taken into consideration by the Court is the delay in concluding the trial. Often this takes several years, and if accused is

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denied bail but is ultimately acquitted, who will restore so many years of his life spent in custody. Furthermore, it is observed that, we are conscious of the fact that, the accused are charged with economic offence of huge magnitude. We are also conscious fact that, the offence alleged if proved may jeopardize the economy of country. But at the same time we can not lose sight of fact that the investigating agency has already completed investigation and the charge sheet is already filed before the judge. Therefore, the presence of accused in the custody may not be necessary for further investigation.

08. Furthermore, I have gone through the above cited judgment **Maninder Sharma Vrs. State Tax Officer, State Tax, Mobile wing, Jalandhar Panjab** wherein it is held that, since the grant or refusal of bail lies in the discretion of Court, the discretion is to be exercised with regard to the fact and circumstances of each case. Furthermore, while considering the grant of bail, the triple test would be also relevant consideration. The three factors as set out in the said test are – 1. Whether accused is a flight risk. 2. Whether accused will temper with the evidence if granted bail. 3. Whether the accused to influence the witness, if granted bail. In economic offence involving the IPC or Special Acts or cases triable by Magistrate once the investigation is complete, final report / complaint filed and triple test is satisfied then denial of bail must be exception rather than rule.

09. Thus, keeping in mind the guidelines given by the Hon'ble Apex Court in the above cited judgment while deciding the bail application and also the observations laid down in the above cited judgments, now it is necessary to look into the facts and circumstances of the present case in hand to see whether the accused is entitled for bail. As I have discussed above the charge sheet is filed. If the nature of alleged offence is considered, as stated above there are allegations that the accused alleged to have committed offence under section 420, 468, 471, 465 read with section 34 of IPC.

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Whether the accused has committed the alleged offence or not is a matter of trial and evidence. At this juncture it has to see whether the accused can be released on bail. It is the principle that bail is rule and jail is exception. The accused has stated that, he is the permanent resident of Mouje Pargaon, Salomalo, Taq.Daund, Dist.Pune. As the investigation seems to be completed, there is no need of further custody of present accused. Furthermore, while releasing accused on bail the necessary conditions also can be imposed upon him. Furthermore, accused seems to be the resident within the district of Pune. In such circumstances there are no any reason for denial of bail to the accused. Hence, the accused is entitled for bail with the following conditions. Thus, I pass the following order;

ORDER

1. The application is allowed.
- 2- Accused No.1 namely **Shivaji @ Vijay Vishwanath Randive** be released on bail in connection with Cr.No.433/2023 registered with Shikrapur Police Station in RCC No.703/2023 on his executing PR bond of Rs. 50,000/- with one or more surety in the like amount on following conditions-
 - a- That accused person shall not, in any way, tamper with prosecution evidence and threatened to the prosecution witnesses.
 - b- That he shall not commit similar nature of an offence.
 - c- That he shall attend the each and every date which will be fixed in the present case
 - d- Accused person shall not abscond from the present proceeding.
 - e- Accused and surety shall furnish their contact number.

Date : 31-10-2023

Sd/-
(**T. S. Wakdikar**)
Judicial Magistrate First Class
Ghodnadi, Shirur, Pune

CERTIFICATE

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

Name of the Court	:-	Smt. T. S. Wakdikar Judicial Magistrate First Class, Ghodnadi (Shirur), Dist. Pune
Name of the Steno	:-	M S Zade
Date of Decision	:-	31-10-2023
Order signed by presiding officer	:-	31-10-2023
Order uploaded on	:-	01-11-2023