

MHRG010009812024



**Order below Exh.04 in Sessions Case No.21/2024**

**(Kalpesh Vs. State).**

The accused namely Kalpesh Santosh Borekar seeks successive regular bail being arrested in crime No. 179/2024 (Session case No.21/2024) registered against him in Pen police station in respect of offence punishable under Section 307, 323, 324, 504 r/w. 34 of the Indian Penal Code.

2. In short, the accused submits that during course of investigation he had moved bail application but the same was rejected being filed at elementary stage. He submits that the charge-sheet is filed and therefore, he moved this successive bail application on the ground that the allegations levelled in charge-sheet taken on their face value do not constitute Section 307 of IPC. There was no previous enmity and premeditation. The incident was unforeseen and unintended. There is no intention attributed to the accused. The victim is discharged from the hospital and now there is no possibility graver offence being made out. The accused is behind bar since 08/06/2024. Further detention of the accused is unwarranted. The accused is permanent resident of village Kowndal tale, Aantora Road, Tal.Pen, Dist-Raigad. So, there is no possibility of his fleeing from justice. Hence, he prayed that he may be released on bail.

3. The learned DGP prayed for rejection of the application on the ground that name of the accused is mentioned in FIR and specific role is attributed to him. The

accusation against him is grave and serious. If the accused is released on bail, he may flee from justice and tamper with the evidence and intimidate the witnesses.

4. Heard the learned Advocate Shri.Ankush More for the accused and learned DGP Shri.S.S.Pawar for State.

5. Admittedly, this is the successive bail application. It is well settled that the accused has right to file successive bail application for grant of bail. The court entertaining such successive application has duty to consider the reasons and grounds on which the earlier bail applications were rejected and in such cases, the court has also a duty to record what are the fresh ground which persuaded it to take a view different from the one taken in the earlier bail application.

6. Now it is to be seen whether the accused introduced any substantial change in the fact situation. It is seen that the accused submit that the victim has been discharged from the hospital in the month of August and he is living normal life. This fact is denied by the prosecution. Certainly the discharged of the victim from the hospital is substantial change in context of successive bail application. Now the possibility of graver offence being made out is very minimal.

7. The accused is languishing in jail since 08/06/2024. At this juncture, I find no propriety in detaining the accused anymore. It is not shown by the prosecution that the accused

has previously undergone imprisonment on conviction by a court in respect of any cognizable offence. The accused seems to have clear antecedence.

8. The prosecution has shown apprehension that after release on bail, the accused may intimidate witness and tamper with the evidence. As regards this apprehension, I have to state here that charge-sheet is filed and now the possibility of tampering with the evidence is minimal. However, it can be taken care of by imposing certain conditions on the accused.

9. Considering allegations and fact that material placed on record does not disclose possibility of the accused fleeing from justice. Trial is not likely to conclude in near future and prolonged pre-trial detention being anathema to concept of liberty.

10. Keeping in view the factors such as nature accusation, nature of supporting evidence, reasonable apprehension of tampering with witness or apprehension of threat to the complainant, prima facie satisfaction in support of the charge and the substantial changes introduced by the accused I am inclined to grant bail to the accused. Hence, the following order.

### **ORDER**

1. The application is allowed.

2. Accused **Kalpesh Santosh Borekar** be released on executing bail bonds in the sum of Rs.20,000/- or cash security of like amount in connection with Cr.No.179 /2024, registered with Pen Police Station, District-Raigad, on following conditions.
  - a. The accused shall co-operate with the investigating officer.
  - b. The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case to dissuade him/her from disclosing such facts to investigating officer.
  - c. The accused shall not obstruct or hamper the police investigation and not play mischief with the evidence collected or yet to be collected by the investigating officer of the police.
  - d. The accused shall maintain law and order.
  - e. The accused shall not enter into the residential area of defacto complainant and intimidate or influence or the witness in any manner until conclusion of trial.
  - f. In case, the accused misuses the liberty of bail, the government pleader or defacto complainant can file bail cancellation application.
  - g. The accused shall furnish his address and mobile number and shall not change the resident till the conclusion of the trial without informing the investigating officer.
  - h. Bail before this Court.
  - i. This order be intimated to the Jail authority forthwith.

Alibag,

Date:- 10/10/2024.

(S.D.Bhagat)

Additional Sessions Judge,  
Raigad-Alibag.

**CERTIFICATE**

I affirm that the contents of the PDF file Judgment are same word for word as per original Judgment.

Name of Steno	-	Sau.Manisha Sudhir Kadave Stenographer Grade-II
Name of Court	-	Shri. S.D.Bhagat, Additional Sessions Judge, Raigad-Alibag
Date of Order	-	10/10/2024.
Order signed by PO on	-	10/10/2024.
Order uploaded on	-	/10/2024.

(Sau.Manisha Sudhir Kadave)  
Stenographer Grade-II