

MHRG170002762024



**IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, PANVEL RAIGAD**
ORDER BELOW EXHIBIT 9 IN SESSIONS CASE NO.19/2024
(Dated 12/06/2024)

1] The applicant/accused Mitesh Shekhar Shetty is seeking bail in C.R.No.309/2023 registered with NRI Coastal police station for the offences punishable under section 379, 465, 468, 471, 413, 201 120 (B) of IPC.

2] According to prosecution, informant is security officer at the site of L & T Construction. The incidence had occurred on 26/10/2023 at 04.30 a.m. There was theft of 350 aluminum plates worth Rs.5 Lacs. As per security guard, vehicle bearing No.MH-40/CR-8271 had came at the site and carried the material by falsely representation.

3] In view of the above report aforesaid crime was registered. Applicant/accused No.1 submits that, he is innocent and has not committed any alleged act. He submits that charge-sheet is filed, alleged muddemal are recovered. There is no incriminating evidence against applicant/accused. According to him, he was employee in the hotel run by accused No.1. It is submitted that, offence u.sec.413 of IPC is not attracted. The previous bail was rejected on the ground that investigation was not completed. Now investigation is completed and charge-sheet is filed.

4] Investigation officer has filed say at Exh.13. He submits that, applicant/accused No.1 was present at the spot of occurrence.

If bail is granted to the accused, he will tamper with the evidence and he may abscond.

5] Heard Ld.Adv.Morepatil and Ld.APP Bhopi.

6] Admitted facts are that, investigation is completed and charge-sheet is filed. Applicant/accused No.1 was arrested on 01/11/2023 and since then he is in custody. Admitted fact is that, one of the co-accused of the present crime Jay Gupta is enlarged on anticipatory bail by Hon'ble Apex Court on 16/02/2024.

7] Prosecution submits that, present accused was involved in conspiracy. There is evidence of CCTV footage. It is submitted that, present accused and accused No.2, had designed the offence and they are booked under section 120(B) of Indian Penal Code. Investigation officer submits that, similar crime is booked against present applicant at Panvel City police station.

8] As stated above, the main culprit is enlarged on bail by Hon'ble Apex Court. Admitted fact is that, accused No.3 Mahadeo was granted bail by me. His role was of presence at the spot. Admittedly accused No.2 is also enlarged on bail. Even if the principle of parity is neglected, prima facie evidence against accused No.1 needs to be considered. Prosecution alleges that, present accused designed the offence. The offence of criminal conspiracy is to be proved at the time of trial.

9] In respect of submissions of investigation officer about previous antecedents of accused No.1, it be noted that, mere pendency of a crime will not term a accused as habitual offender.

10] Considering all these aspects, as there is doubt about applicability of section 413 of IPC, I am of the view that, applicant/accused cannot be detained behind bar for indefinite period. Hence, I pass following order.

ORDER

1. Application Exh.9 is allowed.
2. Applicant/accused No.1 Mitesh Shekhar Shetty in C.R.No.309/2023 registered with NRI Coastal police station for the offences punishable under section 379, 465, 468, 471, 413, 201 120 (B) of IPC be released on P.B.of Rs.25,000/- and executing S.B. of like amount.
3. Applicant/accused shall not directly or indirectly induce or threat prosecution evidence.
4. Applicant/accused shall file undertaking that on every 3rd Saturday of month, he will attend concerned police station from 10.00 a.m. to 01.00 p.m. till further orders.
5. Inform concerned police station and copy of order be sent to Taloja jail by E-mail.
6. Bail before this court.

Panvel
Date :-12/06/2024.

(Jairaj D.Wadne)
Additional Sessions Judge,
Panvel-Raigad

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

Name of the stenographer	: S.J.Sheth
Name of the Court	: Additional Sessions Judge, Panvel Raigad
Date of dictation	: 12/06/2024
Order signed by the P.O.on	: 12/06/2024
Order uploaded on	: 13/06/2024