

MHRG170005982022



**IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, PANVEL RAIGAD**
ORDER BELOW EXHIBIT 7 IN SESSIONS CASE NO.52/2022
(Dated 07/07/2022)

1] The applicant/accused Dr.Pankaj Patil is seeking bail as per section 439 of Cr.P.C.

2] According to prosecution social worker one Salim Shaikh gave information to the police that, a child is likely to be sold and purchased by unknown person. Accordingly, a trap was laid down and the present accused was found making a call and demand and received 8 bundles of fake currency notes of Rs.4,00,000/-. A dummy customer received a girl child and after they came out of dispensary of accused No.1, present accused and other were apprehended.

3] Thereafter Kamothe police registered crime bearing No.437/2021 for the offence punishable under section 320, r.w.34 of IPC and u/sec.81, 87 of the Juvenile Justice (Child Protection and Care) Act, 2015. The present accused are arrested on 29/10/2020 and presently he is in judicial custody. Accused submits that, his wife is suffering from diabetes, she needs support of the accused. It is submitted that the accused is

suffering from angina pectoris of condition which makes unstable, chest pain, heart burn, tiredness, sweating and other symptoms.

4] It is further submitted that, earlier two bail applications were rejected. Now charge-sheet is filed. There is no evidence of basic ingredients of section 370 i.e. exploitation. It is submitted that, there is delay in lodging the FIR. Admitted fact that, offence was not committed but shown as complete. On these and other such grounds bail is sought.

5] Prosecution opposes the bail application.

6] Heard Ld.Adv.Mr.Ankit Bangera for the accused and Ld.DGP Shri Salvi. Following point is formulated for determination, the points alongwith findings and the reasons thereto is as under.

SR. NO.	POINTS	FINDINGS
1.	Does applicants/accused has made out justifiable grounds for grant of ... bail as per section 439 of Cr.P.C. ?	In the Negative
2.	What order ?	As per final order ...

REASONS

As to point No.1 :-

7] Ld.Adv.for the accused No.1 submitted that role of the co-accused who is released on bail and role of present accused are same. According to him this is second bail application after filing of charge-sheet. The bail application is on medical ground. According to him accused is suffering with a disease which has symptoms like chest pain, tiredness, heart burning etc.

8] Ld.DGP pointed out that, after filing of charge-sheet accused had moved similar type of application at Exh.3 which was rejected on 22/04/2022. He pointed out the observations of the predecessor of this court in respect of grounds raised in the bail application pertaining to the offence and material in the charge-sheet.

9] At the outset it must be noted that, though during course of arguments Ld.Adv.for the accused submitted only the ground of illness, the present bail application contains other grounds also. In this regard the predecessor of this court had already recorded his findings. There is no change in circumstances in this regard,hence, the other grounds raised in the bail application about non availability of evidence, delay in FIR are out of consideration.

10] The only ground raised is of alleged illness of the wife of the accused No.1 and alleged illness of accused No.1. For this purpose on behalf of accused a medical certificate of wife of accused is placed on record. The wife of the accused is suffering from insulin dependent diabetes. Except this document there is nothing on record regarding the alleged illness of accused No.1 of the symptoms of heart burn, tiredness etc.

11] Ld.Adv.for the accused has placed reliance on the case of *Manoranjana Sinh Gupta Vs.CBI AIR 2017 SC 769*. In this case there was medical record of the hospital regarding treatment of heart disease, hence, bail was granted. In present case there is no medical record of a continuous treatment required to the accused No.1.

12] Reliance placed on the case of *Vikram Singh Vs CBI, AIR 2018, SC 288*. In this decision also there was medical reports about triple vessel disease of the accused and, hence, bail was granted. Reliance placed on the case of *Farhan Khot Vs. State of Maharashtra*, in this case mother of the accused was suffering from cancer. Medical reports and certificates were found correct , hence, bail was granted.

13] As stated above there is no medical record that the accused No.1 suffers from any heart disease. The only contention that there are symptoms. In such circumstances aforesaid decisions do not advance assistance to the accused.

14] Ld.Adv.for the accused relied on the decision of *Md.Enamul Haque V.s. CBI Cri.Appeal 121 of 2022*. The facts in this appeal were that, Commandant of 83 Batalian of BSF accepted illegal gratification for smugglers of cattle across Indo Bangladesh border. The accused was alleged master mind of the conspiracy. He was granted with default bail. In the regular case he was again arrested. He was behind bar for one year two months , hence, bail was granted.

15] The present facts of the case are entirely different. In respect of the grounds about innocence of accused, the predecessor of this court had already considered the same and have rejected. There is no medical record about the so called illness of the accused. The condition of his wife is not such that, bail should be granted to the present accused. Hence, I answer point No.1 in negative and pass following order.

ORDER

1. Application stands rejected
2. Application is accordingly disposed of.

(Directly dictated in open court on the office computer.)

Panvel
Date :-07/07/2022.

(J.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 : 07/07/2022
Order signed by the P.O.on : 07/07/2022
Order uploaded on : 08/07/2022