

1 Sessions Case No.71/2023
Kalamboli C.R.No.163/2019
The State V/s.
Deepak N. Dandekar and 3
Exhibit No. 04

MHRG170008612023



ORDER BELOW EXH. 04
IN SESSIONS CASE NO.71/2023
KALAMBOLI C.R.NO.163/2019
THE STATE OF MAHARASHTRA -V/S.- DEEPAK NARAYAN
DANDEKAR AND 3
(PASSED ON 05th DAY OF JUNE, 2023)

The applicant/accused -Deepak Narayan Dandekar moved this application vide Section 439 of the Code of Criminal Procedure to enlarge him on bail on medical ground.

2. The prosecution filed reply vide Exh.07.
3. Points for the determination and my findings thereon for the reasons stated below ;

SR. NO.	POINTS	FINDINGS
I.	Whether grounds are justified to release the applicant/accused on bail on medical ground vide Section 439 of the Code of Criminal Procedure ?	Yes.

II.	What Order ?	The application is Allowed.
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REASONS

4. Perused application, say filed. Heard learned advocate Shri.Y.J.Gangan for the applicant/accused as well as learned A.P.P. Shri.C.Y.Patil for the State.

AS TO POINTS NO. I AND II :

BRIEF FACTS OF PROSECUTION :

5. Kalamboli police station registered crime No.163/2019 for the offence punishable under Section 435, 440, 285, 286, 120-B, 201, 308, 34 of the Indian Penal Code and Section 4(A)(1) of the Explosive Substances Act against present applicant/accused and other accused persons. The prosecution is in respect of carrying explosive substance for explosion in front of the school. Prosecution charge-sheeted against accused No.1 to 4.

6. The present applicant is the accused No.1. He is kingpin of the crime. The accused No.2 to 4 are released on bail. The present applicant is behind bar since 04.07.2019. The application for bail is dismissed by this court. Further it is

dismissed by Hon'ble High Court. This applicant moved second application before Hon'ble High Court bearing Criminal Bail Application No.3539 of 2022 and Hon'ble High Court as per order Dated 23.02.2023 disposed of the second application with liberty to file fresh application before this court on medical ground.

WHETHER GROUNDS OF BAIL ON MEDICAL GROUND ARE MADE OUT ?

7. The applicant is facing medical illness of kidney stone. Presently his health is deteriorated for want of proper medical care. Presently, he is admitted in J.J.Hospital. He is likely to undergone surgery on 19.06.2023. According to the advocate of applicant, this date of surgery is time to time is adjourning without actual surgery treatment to him.

8. On that count this court called upon report from the Talaja Central Prison. The medical officer filed report dated 11.05.2023. According to the prisoners report, the age of the applicant is 59 years and he is facing acute abdominal pain with breathlessness with sinus tachycardia, renal calculi. The present health status is he is admitted in J.J.Hospital, Mumbai on emergency basis. His medical related investigations are going on. His general health condition is deteriorating day by day.

Therefore, according to the medical officer the prisoner needs super-specialist treatment under close observation like his close family members.

9. The investigating officer objected to release him on bail on medical ground as per report Exh.07. One police personnel was sent to J.J.Hospital to observe the health condition of the prisoner. The police filed report vide Exh.8. According to this said report, the applicant is admitted in J.J.Hospital suffered with infection to his kidney. He is facing medical illness of kidney stone. His surgery can be done at J.J.Hospital and it is likely to be in short period. The health condition of the patient is stable.

10. Learned advocate of applicant further relied upon the medical papers of accused wherein it transpires this applicant requires medical treatment and surgery at higher center and this applicant required rest for two and half month post surgery. Thus looking to his health and deteriorating condition, the prisoner needs to be treated at higher center. The grounds for medical ground are well founded.

11. Further this applicant has his family and immovable property situated in the jurisdiction of this court. The wife and son of the applicant stays at village Ulwe, Tal.Panvel. The family

has their own residence also, recently one plot was assigned to them. As such, there is no chance of fleeing from justice if he released on bail.

12. In the light of foregoing, the applicant deserves for bail on medical ground. The applicant is ready to furnish the surety. The applicant is required to give update to the court regarding his date of surgery and to place it on record the report post-surgery from time to time. Thus, on medical ground the accused needs to be enlarged on bail for a period of three months. After three months, either the applicant has to surrender himself or looking to his health condition can apply for extension for a short period. On all these grounds, the applicant deserves for bail on medical ground. I answer Point No.I in the affirmative. With this, I pass following order ;

ORDER

1.	The application for regular bail vide Section 439 of the Code of Criminal Procedure on behalf of the applicant/accused – Deepak Narayan Dandekar on medical ground is allowed for a period of three months from today till 04.09.2023.
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2.	The applicant/accused be released on bail on furnishing P.R. and S.B. of Rs.25,000/- (Rs. Twenty Five Thousand) with one surety in the like amount on the following terms and conditions ;
i.	The applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the accusations against him so as to dissuade them from disclosing such facts to the Court or to any police officer.
ii.	The applicant/accused shall not tamper prosecution evidence in any manner.
iii.	A soft copy of this bail order be forwarded to Superintendent, Taloja Jail by e-mail for information in view of observation of Hon'ble Apex Court in the case of In Re Policy Strategy For Grant of Bail in SMWP (CRIMINAL) NO.4/2021, Dated 31.01.2023.
iv.	The applicant shall furnish the inputs of his date of surgery, report post-surgery and his health condition.

v.	After period of three months on 05.09.2023, either he shall surrender himself or apply for extension of this period for further short period looking to his health condition.
vi.	If it is noticed to this court any misuse of bail on his part, then above order of bail will gets stand vacated.
3.	Inform to concerned Police Station accordingly.
	Dictated and pronounced in Open Court.

Place : Panvel.

Date : 05.06.2023

**(K.G. Paldewar)
 Additional Sessions Judge,
 Panvel**

Arguments heard on	05 th Day of June, 2023.
Judgment/order delivered on	05 th Day of June, 2023.
Dictated on	05 th Day of June, 2023.
Transcribed on	05 th Day of June, 2023.
Checked and signed on	05 th Day of June, 2023.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order is same and as per the original Judgment/Order.

Name of the Stenographer : P.S.Mhatre
Name of the Court : Additional Sessions Court,
Panvel
Date of Judgment/Order : 05.06.2023.
Judgment/Order signed on : 05.06.2023.
Presiding Officer : K.G. Paldewar
Judgment/Order uploaded on : 05.06.2023.