

MHRG170020612019



**IN THE COURT OF DISTRICT JUDGE-1 & ADDITIONAL
SESSIONS JUDGE, PANVEL, DIST.RAIGAD
ORDER PASSED BELOW EXHIBIT-69 & EXHIBIT 70
IN SESSIONS CASE NO.439/2019
(Dated 08/02/2023)**

1] Applications are moved by accused Nos.1 and 2 for grant of bail. Applicant/accused Nos.1 and 2 submits that they are behind bar since 31/05/2018. The trial is delayed by the prosecution. There was no recovery of any incriminating articles from either of the accused, hence bail is sought.

2] Prosecution opposed the application on the grounds that offence is serious and trial will be concluded shortly.

3] Heard Ld.Adv.Bangera and Ld.APP Shri Yerunkar.

4] Admittedly case of the prosecution is based on circumstantial evidence. Till date 12 witnesses are examined. Admitted fact is that charge was framed on 29/03/2019 by the Predecessor of this Court, at Raigad-Alibag. Thereafter the first witness was examined on 09/07/2019. When the matter came before me on 21/06/2022, at first time, on the same day witness summons was issued. Thereafter till 10/08/2022 prosecution did not secure presence of witness. On 10/08/2022 witness summons was issued. On next day prosecution did not take any steps. The

court on its own on 15/09/2022 re-issued witness summons Exh.64. On 09/12/2022 witness summons was re-issued as per Exh.65. Again on 11/01/2023 witness summons was re-issued. Consistently prosecution, from June 2022 till date failed to secure presence of its witness.

5] Even today it is reported that the prosecution witness PI M.R.Shelar is served but due to bandobast he is unable to remain present in the court. Ld.APP applied for issuance of bailable warrant.

6] The aforesaid is the state of trial, which clearly indicate that the prosecution is not serious in adducing the evidence and keeping present its witness. In this case accused persons are in jail since the year 2018. Accused are behind bar only for the reason that prosecution witnesses are not coming to the Court. Considering this peculiar circumstances and also considering the age of the accused No.1 and physical disability of the accused No.2, I am of the view that both accused needs to be enlarged on bail on conditions. I answer the point No.1 in the affirmative and pass, following order.

ORDER

1. Bail applications Exh.69 and 70 are allowed.
2. The accused **No.1-Bharti Prakash Aandre and No.2 Muka** be released on SB and PB of Rs.50,000/- each in C.R.No.102/2018 (Sessions Case No.439/2019, old No.4/2019) registered with Khalapur police station for the offence p/u/sec.302, 201 r.w.34 of IPC.

3. Accused Nos.1 and 2 shall not directly or indirectly induce or threat the remaining prosecution witnesses.
4. Applicants/accused Nos.1 and 2 shall file undertaking that they will attend each and every date of the present case and also shall furnish their address proof.
5. Inform concerned police station.

Panvel

(Jairaj D.Wadne)

Dated :-08/02/2023

Addl. Sessions Judge, Panvel-Raigad

Name of the stenographer	: S.J.Sheth
Name of the Court	: Additional Sessions Judge, Panvel Raigad
Date of dictation	: 08/02/2023
Order signed by the P.O.on	: 10/02/2023
Order uploaded on	: 20/02/2023