



CNR NO.MHSI010001552022
Order below Exh. 21 in S.C. No.13/2022

The present application is third bail application preferred by the applicant/accused Vinayak @ Kushal Nagesh Tangsali under section 439 of the Code of Criminal Procedure Code for regular bail in Sawantwadi police station C.R. No.300/2021 under sections 302, 397 and 201 of Indian Penal Code, on the ground that the circumstances are changed as custodial investigation completed, charge-sheet is filed applicant/accused falsely implicated in the present crime, no incriminating evidence found even in charge-sheet, the applicant/accused is behind bar since 13/11/2021 due to which his family members including old mother, children and wife unable to maintain themselves, above all the trial is prolonged due to delay tactics of prosecution and applicant/accused is ready to abide each and every condition if he released on bail.

2. The prosecution objected the present application on the count, the delay in trial is not intentional one. So also, the prosecution had taken every effort to get report of FSL, Delhi as early as possible.

3. Heard advocate S. A. Nevgi for applicant and APP N. P. Konghe for prosecution at length.

4. Adv. S. A. Nevgi for applicant/accused orally submitted that, the charge-sheet does not reflected evidence against the applicant/accused, the motive of applicant/accused to commit crime is not reflected, so also Nandkumar Parte having strong motive rather than the applicant/accused, at the time of death of deceased the applicant/accused was in his house, applicant/accused is bread-winner of his family. He further submitted that, the prosecution not proceeded with the trial for this reason or other and prolonging hearing of the case and he also submitted that the applicant/accused is ready to abide each and every condition due to which required to be released on bail.

5. The A.P.P. N. P. Konghe orally submitted that, the prosecution has not intention to cause delay in trial and ready for hearing of the case if the applicant/accused ready to proceed with the trial. He further submitted that, prosecution approached to FSL, Delhi through correspondence showing bonafite efforts of prosecution. He lastly submitted that, delay is not intentional one, there is no change in circumstances by which applicant/accused is entitled for released on bail and prayed for rejection of bail application.

6. On perusal of bail application, say of prosecution and perusal of investigation papers which are returned to APP and after consideration of oral submissions of both side advocates, the following points arise for the determination of this Court, on which the court answer thereon with reasons as follow:-

Sr. No.	Points	Findings
1)	Whether the applicant/accused proves case for his release on bail in Sawantwadi police station C.R. No.300/2021 under sections 302, 397 and 201 of Indian Penal Code?	 In the negative.
2)	What order ?	 As per final order.

-:- REASONS -:-

As to point No.1:-

7. The present applicant/accused came with the case that, the circumstances are changed as custodial investigation completed, charge-sheet is filed, applicant/accused falsely implicated in the present crime, no incriminating evidence found even in charge-sheet, the applicant/accused is behind bar since 13/11/2021 due to which his family members including old mother, children and wife unable to maintain themselves above all the trial could not initiated due to delay tactics of prosecution and applicant/accused is ready to abide each and every condition if he released on bail.

8. On perusal of charge-sheet it is observed that, the knife was recovered at the instance of applicant/accused, so also he entered in the home of deceased, similarly, gold melting instrument found which suggest that there is evidence against the accused in the present case. On perusal of record of the case it is observed that, the charge was framed on 31/03/2022 altered on 28/07/2022 and programme for hearing was also scheduled but for want of FSL certificate the hearing could not proceed. It is also observed that, the prosecution attempting to getting FSL certificate as early as possible but all goes in veins. Therefore, it cannot be say that the prosecution caused delay in hearing intentionally. Therefore, this cannot be changed the circumstance which become ground for release of applicant/accused on bail.

9. The other grounds relied by the applicant/accused already discussed in earlier bail orders and no change found in that circumstances in which earlier bail applications of applicant/accused were rejected. Hence, Court **answer point No.1 in the negative.**

As to point No.2:-

10. As the court concluded the applicant/accused failed to prove case of grant of bail then application deserves for rejection. Hence order.:-

:-O R D E R :-

1. The application Exh. 21 is rejected.
2. Accordingly, Exh. 21 in S.C. No.13/2022 is disposed of.

(Dictated and pronounced in open court.)

Date:- 20/10/2022

Sd/-
(S. V. Hande)
Sessions Judge,
Sindhudurg-Oros.