

MHSI030000382026



R.C.C. No.01/2026

State through
Police Station Sawantwadi
Vs
Vishnu Bandekar & Anr.

Order below Exh.15

Perused the application, say of Ld. APP thereon, entire record before me, heard both parties at length.

02. Present application has been filed by the accused No.1 for bail. According to him, FIR was lodged by the informant with Sawantwadi police station alleging that unknown persons contacted him telephonically impersonating Crime Branch Police, threatened him with implication in a money laundering case and induced him to transfer Rs.97,00,000/- in his account. The applicant accused was arrested by Sawantwadi Police Station on 01/12/2025 in C.R. No.276/2025 for offences punishable under Section 318(4) of BNS and Section 66(c) and (d) of Information Technology Act. Initially he was remanded in P.C. and thereafter, he is in M.C. He had filed bail application on 08/12/2025, it was rejected. He filed bail application No.218/2025 before Sessions Court, said application was also rejected. But, thereafter chargesheet has been filed in the Court of J.M.F.C. Sawantwadi on 28/01/2026 and the case has been transferred to this Court. Filing of chargesheet constitutes a material change in circumstance, hence, he has moved this fresh bail application on grounds mentioned below.

03. He is in custody since 01/12/2026, as investigation is complete and all documentary and electronic evidence on which the case is based has been already recovered. Therefore, there is no need of his further custodial interrogation. All these offences levelled

against him are triable by magistrate and none of them is punishable with death or imprisonment for life. An accused is presumed to be innocent until guilt is proved, therefore, his detention violates fundamental right under Article 21. Bail is rule and jail is exception. Hon'ble Supreme Court has repeatedly held that seriousness of allegation cannot be the sole ground to deny bail and severity of punishment alone is insufficient to justify prolonged custody. He will not misuse the liberty, undertakes to co-operate with the investigation and will attend the court regularly. On these grounds, he has prayed that he be released on bail.

04. Ld. APP opposed the application on the ground that offence is of serious nature, accused has induced the informant to pay him amount of Rs.97,00,000/- by threatening him. Mere filing of Chargesheet doesn't amount to change in circumstance. Accused is resident of Mumbai, if he is released on bail, possibility of his absconding cannot be ruled out. On these grounds, Ld. APP prayed for rejection of the application.

05. Accused has been charge sheeted for the offences punishable under Section 318(4) of BNS and 66(c) and (d) of Information Technology Act. It is the case of the prosecution that the accused by making video call/telephone threatened him with implication in a money laundering case and induced him to transfer Rs.97,00,000/- in his account. Admittedly, before filing of the charge sheet, the accused had filed bail applications in the court of JMFC Sawantwadi and Sessions Court and they were rejected. But, now, as chargesheet has been filed, as per accused it is change in circumstances, hence, he again has moved this application.

06. Firstly, it has to be seen, when earlier bail applications have been rejected, whether, filing of chargesheet amounts to change in circumstances and whether the accused can file subsequent bail application on that basis? On this point, I came across the judgment of Hon'ble High Court of Bombay in case of **Laxman Irappa Hatti V/s. The State of Maharashtra, MANU/MH/0422/2004**, wherein it has been held that filing of charge-sheet can be termed as substantial change in circumstance. The relevant portion of said judgment is reproduced below.

Until filing of the chargesheet, one of the important fact that weigh on the mind of a Judge is the continuity of investigation and whether the investigation will be hampered if the accused is set at large. However, after filing of the chargesheet, this approach changes and the Court, apart from merits of the case, requires to consider whether the accused should be continued in custody even after the investigation is over. This change, in the approach of the Court after filing of the chargesheet towards evaluating the need of keeping the accused in custody, should be termed as substantial change.

07. Further, Hon'ble Supreme Court in case of **Arvind Kejriwal Vs. Central Bureau of Investigation, MANU/SC/1009/2024** has also held that filing of charge sheet amounts to change in circumstances. But, it has been further held that bail application should be decided on merit and there cannot be straitjacket formula. Hon'ble court has mentioned factors to be considered while deciding such bail applications. Relevant para of said judgment is reproduced below-

It is true that generally the Trial Court should consider the prayer seeking bail once the chargesheet is filed, since the material that an Investigating Authority may have been able to procure would undoubtedly facilitate that court to form a prima facie opinion with regard to (i) the gravity of offence; (ii) the degree of involvement of the applicant; (iii) the background and vulnerability of the witnesses; (iv) the approximate timeline for conclusion of the trial based on the number of witnesses; and

(v) the societal impact of granting or denying bail. However, there can be no straitjacket formula which enumerates that every case concerning the consideration of bail should depend upon the filing of a chargesheet. In fact, each case ought to be assessed on its own merits, recognizing that no one-size fits all formula exists for determining bail.

08. In view of above discussed judgments and legal position, it has to be said that though previous bail applications of this accused were rejected, as now chargesheet has been filed, there is substantial change in circumstances and hence, present bail application is maintainable and has to be considered on merits. However, as held by Hon'ble Supreme Court in case of Arvind Kejariwal (Supra), while deciding this application, all relevant factors, namely the gravity of offence, the degree of involvement of the applicant, the background and vulnerability of the witnesses, the approximate timeline for conclusion of the trial based on the number of witnesses and the societal impact of granting or denying bail have to be taken into account.

09. As discussed earlier, it is the case of the prosecution that the accused has induced the informant to transfer huge amount of Rs. 97,00,000/- in his account by pretending to be a police officer and by saying that he is implicated in a money laundering case. Offence under Section 318(4) of BNS is punishable with imprisonment up to 7 years and fine, offences under Section 66(c) (identity theft) and 66(d) (cheating by personation by using computer resource) are punishable with imprisonment up to three years and fine up to Rs.1,00,000/-. In my opinion, considering the prescribed punishment, amount, the mode of commission of offence and considering the fact that the informant is 85 year old, in my view, the offence is of very grave nature.

10. The chargesheet prima-facie shows direct involvement of the applicant-accused in the offence. Admittedly, he is permanent resident of Mumbai and considering the amount involved, there is every possibility that he will abscond and will not attend the court.

11. Further, as per chargesheet, prosecution is going to examine only seven witnesses including informant, two panch and two I.O.s Therefore, in my view, this trial can be concluded within reasonably short period. For expeditious disposal of this case and as no other under trial case is pending in this court, this matter can be heard day to day as far as possible.

12. For the reasons discussed herein above, I have come to the conclusion that though charge sheet has been filed, it will not be proper to release the accused on bail. Hence, I hold that present application for bail is liable to be rejected. In the result following order.

ORDER

01. The application stands rejected.
02. The accused No.1 be produced for framing of charge on 28/02/2026.
03. As the accused No.1 is under trial, this case will be heard day to day as far as possible.

Oros.
Dated : 26/02/2026.

(**A.G.Deshingkar**)
Addl. Chief Judicial Magistrate,
Sindhudurg-Oros.