



RCC No. 394/2023
State of Maharashtra
Vs. Sunil

ORDER PASSED BELOW APPLICATION (EXH. NO. 82)

The informant has filed the application praying to issue non bailable warrant against accused No. 1.

02. It is worth here to note that today the case is not listed on the daily board. The informant through Adv. Smt. B. M. Shaikh vide application (Exh. No. 81) has taken the case on board.

03. The learned Adv. Smt. B. M. Shaikh contends that on the basis of FIR of the informant, serious offences have been registered against accused. The Hon'ble Bombay High Court rejected anticipatory bail application of accused No. 1. Thereafter, on 03.07.2023, accused No. 1 was arrested. Accused No. 1 after his arrest submitted bail application to this Court. This Court also rejected the bail application. Therefore, accused No. 1 preferred Criminal Bail Application No. 859/2023 before the Sessions Court, Sangli. While granting bail to accused No. 1, Sessions Court had granted bail to accused No. 1 for only 6 months. Moreover, within that period the main condition imposed upon accused No. 1 was that accused No. 1 was to pay certain amount to the informant. However, accused No. 1 did not pay the amount payable to the informant institution. Accused No. 1 committed breach of that condition. It results into

cancellation of bail of accused No. 1.

04. Accused No. 1 again filed application bearing Misc. Criminal Appli. No. 165/2024 before the Sessions Court, Sangli for continuation of bail. On 11.02.2025, the Sessions Court, Sangli rejected Misc. Criminal Appli. No. 165/2024. Accordingly, the Hon'ble Sessions Court, Sangli ordered accused No. 1 to surrender either before this Court or before Sessions Court within the period of 10 days from that day, so that he can be remanded to judicial custody. The Hon'ble Sessions Court, Sangli also ordered that in case, accused No. 1 fails to surrender before either of the Court, further action as per law including issuance of NBW, notice to surety shall be taken to secure his presence.

05. Within 10 days from 11.02.2025, neither accused No. 1 surrendered before the Sessions Court or this Court. Accused No. 1 again committed breach of order passed by the Sessions Court, Sangli dated 11.02.2025. Therefore, the informant filed Miscellaneous Criminal Application No. 33/2025 before the Sessions Court, Sangli on 25.02.2025. On 27.02.2025, the Sessions Court, Sangli decided Miscellaneous Criminal Application No. 33/2025. Therefore, the informant has prayed for as mentioned above.

06. I called say of the learned APP for the State. The learned APP for the State endorsed his say on overleaf of the application that it appears from record that accused No. 1 has not complied with the bail order of the Sessions Court, Sangli.

On previous date 27.01.2025, accused No. 1 was absent. Considering the record, the learned APP contends that it appears that accused has failed to comply bail order and NBW needs to be issued against accused No. 1. But, he qualifies his statement by adding that as the case has been taken on board today, accused No. 1 is absent and before passing any order, it is necessary to hear accused No. 1 as per natural justice.

07. I perused the application, say thereon, documents produced on record today vide list of documents (Exh. No. 85) and heard arguments.

08. It is worth here to note that final report bearing R.C.C. No. 394/2023 has been already submitted against all the accused. Considering the certified copy of order passed by the Sessions Court, Sangli in Misc. Criminal Appli. No. 165/2024 and 166/2024, some undisputed facts emerges. The undisputed fact from the record are that accused No. 1 had filed Criminal Bail Application No. 859/2023 before the Sessions Court, Sangli. He was released on bail on certain conditions. One of the condition was that accused No. 1 was ordered to deposit Rs. 10,00,000/- to the informant Credit Society. Moreover, the said bail order was to remain in force only for 6 months. That order was passed on 13.03.2024. There is no dispute that 6 months have already passed.

09. It is worth here to note that accused No. 1 had filed Misc. Criminal Appli. No. 165/2024 praying to continue and

confirm the bail granted by the Sessions Court, Sangli vide order passed in Criminal Bail Application No. 859/2023. Thus, temporary bail for 6 months was granted to accused No. 1. Accused No. 1 tried to get continued and confirm the bail. The informant filed Misc. Criminal Appli. No. 166/2024 praying to punish accused No. 1 for disobeying the order dated 13.03.2024 under the Contempt of Court Act and also prayed to reject and cancel the provisional bail dated 13.03.2024.

10. Misc. Criminal Appli. Nos. 165/2024, 166/2024 have been decided by the common order passed on 11.02.2025. Accordingly, the Sessions Court, Sangli rejected Misc. Criminal Appli. No. 165/2024. I perused that order. The Hon'ble Sessions Court has rejected bail application of accused No. 1 **on merit as well as** for not following the order dated 13.03.2024. Thus, the fact emerges is that accused No. 1 is not on bail after or on 11.02.2025.

11. After 11.02.2025, the informant filed Misc. Criminal Appli. No. 33/2025. The Hon'ble Sessions Court, Sangli decided it on 27.02.2025. The informant had filed that appeal contending that accused No. 1 failed to surrender within 10 days either before this Court or Sessions Court. Bail application of accused No. 1 had been rejected. Therefore, the informant prayed to issue NBW against accused No. 1. The Hon'ble Sessions Court, Sangli noted that final report has been submitted before this Court. Therefore, the Hon'ble Sessions Court, Sangli thought it just and legal that the informant should

approach before this Court for issuance of NBW against accused No. 1 as per order dated 11.02.2025. Accordingly, the informant has filed the instant application before this Court. The informant has also placed on record his affidavit that after rejection of Misc. Criminal Appli. No. 165/2024, the informant has not received any notice from the Hon'ble Bombay High Court.

12. It is worth here to note that vide order dated 11.02.2025 Misc. Criminal Appli. No. 165/2024 of accused No. 1 has been rejected. Today, it is 04.03.2025. Thus, almost 3 weeks have been passed after that order. The informant has taken the case on board. It is true that on previous date i.e. on 27.01.2025 accused No. 1 was absent. However, prior to that date, on 15.11.2024, 19.09.2024, 17.08.2024, 10.06.2024 accused No. 1 was present before this Court. Considering the days passed after 11.02.2025 and considering the say of learned APP for the State, I find that one opportunity requires to be given to accused No. 1.

13. In case of failure of accused No. 1 to show reason as to why he should not be taken in MCR as per the order dated 11.02.2025, order can be passed. Therefore, I find that notice requires to be issued to accused No. 1. Similarly, considering the gravity of the application, I am also of opinion that notice requires to be issued to surety of accused No. 1 requiring the surety to produce accused No. 1 before this Court on 11.03.2025. Accordingly, issue notice to accused No. 1 and issue notice to surety of accused No. 1 requiring the surety to produce

accused No. 1 on 11.03.2025 at 11.00 a.m. before this Court.
Keep the application at abeyance till 11.03.2025 for further
order.

Miraj
Date : 04.03.2025

(R. S. Wankhede)
Judicial Magistrate First Class
Miraj

CERTIFICATE

I affirm that the contents of this P.D.F file judgment/order are same, word to word, as per the original judgment/order.

Name of the Stenographer. : K. A. Udagave (Steno. - III)
Court. : Civil Judge Junior Division and
Judicial Magistrate F.C. Miraj

Dictation Date : 04.03.2025
Order signed by
the Presiding Officer on. : 04.03.2025
Order uploaded on. : 05.03.2025