

Regular Criminal Case No. 28/2014.
(Order Below Bail Application vide Exh. 345)

1. Read application and say of learned A.P.P. vide Exh.347. Heard applicant-accused Kailas Awaghade, his advocate Shri. A. V. Rajput and learned A.P.P Smt. A. R. Dadape at length.
2. This application is filed by accused No. 4 Kailas Umaji Awaghade for releasing him on bail. According to him, he was ill, therefore, he was unable to attend the dates of the Court. Further, he submitted that his old age mother, wife Surekha and two children are dependent upon him. He is ready to abide the Court conditions and he will not abscond. Hence, he requested to release him on bail. Alternatively, he prayed to expedite the trial and keep the matter for hearing after two-two days instead of keeping the matter once in a week.
3. The learned A.P.P. resisted this application contending that there is prima-facie evidence against the accused. His earlier bail applications are rejected by this Court and Sessions Court, Sangli. Applicant-accused is main accused in connection with the crime. If applicant-accused is released he will again abscond and he will misuse his liberty and tamper the prosecution evidence. Hence, she prayed to reject the application.
4. In this case charge is framed against applicant-accused and other accused persons for the offences punishable under Sections

420, 467, 468 and 471 r.w. 34 of the Indian Penal Code. As per prosecution case, applicant-accused and other accused persons have deceived informant and prosecution witnesses i.e. other 25 unemployed youths by extracting money for giving job in Railway department and by preparing false and forged document in respect of said recruitment.

5. In view of order dated 20-02-2015 below bail application of applicant-accused vide Exh. 158 this Court granted bail him considering his illness and released him. However, he failed to abide the Court conditions and remained absent in the Court for so many dates. Therefore, he was caught and remanded in M.C.-Jail on 01-02-2016. Then he applied to release him on bail by application vide Exh. 291 and same is rejected by this Court on 10-03-2016. Then he filed application bearing Cri.M.A. no. 492/2016 before the Hon'ble Sessions Court, Sangli for releasing him on bail. The same is rejected by the Hon'ble Sessions Court, Sangli by its order dated 20-08-2016. Then 08-09-2016 this application is filed by the applicant-accused for releasing him on bail.

6. Informant Uday and more than 25 unemployed youths from the vicinity of Tasgaon and Kavathe-Mahankal are victims of the crime. On perusal of first information report and statement of witnesses i.e. unemployed youths, prosecution has prima-facie case against the applicant-accused. The facts came on record the accused persons had run false training center to cheat the victims and applicant-accused No.4 Kailas has played vital role at said false

training center. Further it is alleged by the prosecution that applicant-accused involved in collecting money from prosecution witnesses for giving job to them in Railway department. In these circumstances, granting of bail to the applicant-accused would defeat the end of justice and failure of justice.

7. According to accused, his family is dependent on him and if he is not released on bail, his family will face starvation. Thus, the accused claimed bail on the ground of sympathy. However, in my opinion bail cannot be granted in the name of sympathy. Sympathy for applicant-accused may mean lack of sympathy for victims. In the name of human approach for the applicant-accused Court cannot exhibit lack of sensitivity for the feelings and sentiments of the weeping victims.

8. It is not contention of accused that he is suffering from any illness for which treatment is not available in Government Hospital. If applicant-accused is suffering from any illness, then he can get appropriate treatment in Government hospital and for that purpose he is not entitled to release on bail. When the applicant-accused was released on bail, he remained absent in the proceeding. His wife accused no. 7 Apeksha is absconded and not yet arrested. Applicant-accused is resident of Thane, Mumbai. Taking into consideration his previous conduct and absenteeism, there is possibility that applicant-accused may be absconded, if he released on bail. Hence, I decline to exercise discretion to grant bail in favour of applicant-accused. Thus, taking into consideration the totality of the

facts and circumstances, the application of the applicant-accused Kailas Awaghade is liable to be rejected.

9. It is made clear that the Hon'ble Bombay High Court expedited the trial and directed to keep the matter atleast once in a week. Further, as per request of applicant-accused practically it is not possible to keep the matter for hearing day after day. Hence, the order. :

ORDER

The application is rejected.

Sd/-xxx

TASGAON.

Date: 29th Sept. 2016.

(A. A. Chendke)

JUDICIAL MAGISTRATE, FIRST CLASS,

TASGAON.