

ORDER BELOW APPLICATION (EXHIBIT 141) IN
SESSIONS CASE NO. 96/2019
(STATE VS. TANAJI & OTHS)
(PASSED ON 08/03/2023)

Nature of the Application.

1. This is an application filed by the accused No. 6-Ganesh Vitthal Surwase (for short 'accused') seeking bail under Section 439 of the Code of Criminal Procedure (for short 'Cr.P.C.').

Contents in the Application.

2. The accused has contended that in this case a non-bailable warrant (for short 'N.B.W.') was issued against him and he was remanded to Judicial custody.

3. He has permanent place of residence.

4. If released on bail he is ready to abide by the conditions imposed and to remain present on all court dates.

5. On these grounds the accused has prayed to grant the application.

Contents in the Reply of the Additional Public Prosecutor.

6. The Additional public Prosecutor (for short 'A.P.P.') has filed reply below the application (Exhibit 143).

7. The A.P.P has strongly objected the application. He has contended that the application is not tenable. The case is old and is part-heard. The accused failed to remain present on dates fixed for hearing. If the application is granted the accused will not attend the court dates.

8. On these grounds the A.P.P. has prayed to reject the application.

The Arguments.

9. I have heard Shri. P. U. Gaikwad, advocate for the accused

and Shri. S. V. Wangikar, A.P.P. for the prosecution, in extenso.

10. They argued in consonance with the contentions in the application, say and referring the documents produced on record. In order to avoid repetition it is not necessary to note those arguments.

Points and Findings.

11. Upon hearing the following points arise for my consideration and I record my findings thereon as under for the reasons to follow :-

	Points	Findings
1)	Whether a case has been made out by the accused for granting the relief of bail, as prayed for ?	Yes.
2)	What order ?	Application Granted. As per final order.

Reasons as to Point Nos. 1 and 2.

12. After going through the say filed by the A.P.P. it transpires that the accused failed to remain present on some of the court dates since the date of his release on bail.

13. Admittedly, the offence with which the accused is charged is under Section 302 of the Indian Penal Code. The accused was initially released on execution of bail. Therefore, considering the nature of offence I am of the view that the accused is entitled to be released on bail.

14. The accused is in Judicial custody since 04/01/2023. This case is fixed for hearing and is part-heard. If the accused is in Judicial custody, certainly he would not be able to look after his family as he would be if he is out of custody. Therefore, in the interest of justice if

the accused is released on bail it will help to decide this case, on merit.

15. It is well settled that every person, detained or arrested, is entitled to speedy trial.

16. The accused is in jail since 04/01/2023. It will take considerable time to conclude the trial and it seems that the accused, who is in jail, have to remain in jail longer. It is not in the interest of justice that accused should be in jail for an indefinite period. I do not see any good reason to detain the accused in custody.

17. It is well settled that the provision of bail under Section 439 of the Code of Criminal Procedure is meant for saving the innocent person from unnecessary detention. The said provision cannot be used for a person, who prima-facie, is involved in criminal activities.

18. To sum up, the offence with which the accused is charged though is of serious nature, it cannot be ignored that the presence of the accused in the custody may not be necessary for hearing or conclusion of trial. The accused has permanent place of residence and there is no possibility of his fleeing from justice, prima-facie. I am of the firm view that the accused is entitled to the grant of bail pending trial on stringent conditions in order to lessen the intensity of the apprehension expressed by A.P.P. in his say.

19. Considering the above-mentioned facts and circumstances of the case, I am inclined to grant bail to the accused.

20. It is made clear that the observations made in this order are made for the limited purpose of this application only and all parties are at liberty to agitate their respective cases at the time of trial in the case on merit without being prejudiced even in the least by any of the observations made in this order.

21. Accordingly, I answer point No.1 in the affirmative and

point No. 2 as application granted, as per final order

22. In the result, following order:-

ORDER

1.	The application (Exhibit 141) is granted.
2.	The accused-Ganesh Vitthal Surwase be released on bail in Sessions Case No. 96/2019 pending on the file of Additional Sessions Judge, Pandharpur on his furnishing a personal bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand only) with one surety in the like amount on the following conditions :-
(i)	The accused shall make himself available and attend all Court dates.
(ii)	The accused shall not abscond and furnish his address to the court.
(iii)	The accused shall make his mobile number available with the Court.

(Pronounced in Open Court).

Date- 08/03/2023.

(M.B.Lambe)
Additional Sessions Judge,
Pandharpur.

CERTIFICATE

I affirm that the contents of this PDF file Order is same word to word as per the original Order.

(a)Name of the Stenographer	:	Sou. M. M. Kulkarni
(b)Court	:	M. B. Lambe, District Judge – 1 & Addl. Sessions Judge, Pandharpur.
(c)Order signed by P.O. on	:	08/03/2023
(d)Order uploaded on	:	09/03/2023