

C.B.A. No.186/2026
Kamlesh Dhote Vs. State
Order below Exh.01
(Passed on 15.06.2026)
(CNR No. MHWR010009002026)

1] The applicant/accused, Kamlesh Namdeorao Dhote, has filed the present application for regular bail under Section 439 read with Section 437(6) of the Code of Criminal Procedure in connection with Crime No.599/2024 registered with Wardha (City) Police Station for the offences punishable under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code. The applicant came to be arrested on 16.06.2025. Perused the application, the say filed by the prosecution and record. Heard the learned Advocate for the applicant and the learned APP for the State.

2] Learned Advocate for the applicant submitted that charge came to be framed on 19.11.2025 and the learned Trial Court has failed to conclude the trial within the prescribed period. It is submitted that the applicant filed an application under Section 437(6) of the Code of Criminal Procedure before the Trial Court, which came to be rejected on 20.05.2026 on the grounds that the applicant is the main accused, that he had remained absconding for about one year, and that there exists a strong possibility of his absconding again and tampering with or fabricating the evidence if released on bail. It is further submitted that the provisions of Section 437(6) of the Code of Criminal Procedure are mandatory in nature. Relying upon the judgment of the Hon'ble Supreme Court in **Subhelal @ Sushil Sahu Vs. State of Chhattisgarh, Criminal Appeal No.818/2025 decided on 18.02.2025**, and the judgment of the Hon'ble Bombay High Court, Nagpur Bench, in **Satish**

Ghanshyam Rathi Vs. State of Maharashtra, Criminal Writ Petition No.265/2026 decided on 18.04.2026, learned Advocate prayed for allowing the application.

3] On the other hand, learned A.P.P. submitted that provisions of Section 437(6) of the Code of Criminal Procedure is not mandatory and it gives discretionary power to the Magistrate to refuse bail. Similar offences are registered against the applicant at Sakardara Police Station, Nagpur and Wardha(City) Police Station. Offence is of serious nature. By rejecting the bail application (Exh.13), the learned Trial Court assigned the proper reasons. Hence, he prayed for rejection of the application.

4] Section 437 of the Code of Criminal Procedure deals with the powers of a Magistrate to grant bail in non-bailable offences. Section 437(6) provides that where, in a case triable by a Magistrate, the trial of a person accused of a non-bailable offence is not concluded within sixty days from the first date fixed for taking evidence, such person shall, if he has remained in custody throughout the said period, be released on bail to the satisfaction of the Magistrate, unless, for reasons to be recorded in writing, the Magistrate otherwise directs.

5] A plain reading of Section 437(6) of the Code of Criminal Procedure indicates that the following conditions must be satisfied: (i) the accused must be charged with a non-bailable offence; (ii) the trial has not been concluded within sixty days from the first date fixed for recording evidence; (iii) the accused must have remained in custody during the entire said period; and (iv) the case must be triable by a Magistrate. The first part of Section 437(6) is mandatory in nature. However, the latter part confers discretion upon the Magistrate to refuse

bail for reasons to be recorded in writing, notwithstanding satisfaction of the aforesaid conditions.

6] It is not in dispute that the applicant along with other co-accused persons is facing trial in Crime No.599/2024 registered with Wardha (City) Police Station for offences punishable under Sections 420, 406, 409 read with Section 34 of the Indian Penal Code.

7] It is also undisputed that the applicant is in custody since his arrest and charge was framed on 19.11.2025. It is further undisputed that the trial has not been concluded within the statutory period as contemplated under Section 437(6) of the Code of Criminal Procedure. Therefore, the application under Section 437(6) is maintainable. The offences involved are non-bailable and triable by a Magistrate.

8] The learned Trial Court rejected the applicant's application under Section 437(6) of the Code of Criminal Procedure mainly on the ground that the applicant is the main accused, he remained absconding for about one year, and that there is possibility of his absconding and tampering with the evidence if released on bail. In this regard, it is pertinent to note that seeking anticipatory bail is a statutory remedy available to an accused person. Mere rejection of such relief by the Sessions Court and pursuit of remedies before higher Courts cannot, by itself, lead to an inference that the accused was absconding. As regards the apprehension of tampering with or fabricating evidence, the prosecution case is wholly based upon documentary evidence, which is already in the custody of the Court and, therefore, the possibility of tampering with the same appears remote. In these circumstances, the conclusion drawn by the learned Trial Court regarding the likelihood of

absconding or tampering with evidence does not appear to be well-founded.

9] The record reveals that there are nine accused persons involved in the case and the prosecution proposes to examine several witnesses. In **Dataram Singh Vs. State of Uttar Pradesh and Another, (2018) 3 SCC 22**, while reiterating the principle 'bail is a rule and jail is an exception', the Hon'ble Supreme Court has held that bail should ordinarily be granted unless there are compelling reasons to believe that the accused would flee from justice, tamper with evidence, or influence witnesses. No such material is placed on record in the present case. Moreover, in **Subhelal @ Sushil Sahu** (supra), the Hon'ble Supreme Court granted bail even in an economic offence, subject to appropriate conditions. Likewise, in similar situation in **Satish Ghanshyam Rathi** (supra), the Hon'ble Bombay High Court granted bail by setting aside the orders of the Courts below. Having regard to the facts and circumstances of the present case, this Court is satisfied that the applicant has made out a case for grant of bail under Section 437(6) of the Code of Criminal Procedure, subject to stringent conditions. Accordingly, the following order is passed:

ORDER

- (i) The application is allowed.
- (ii) The applicant/accused, Kamlesh Namdeorao Dhote, shall be released on bail in Crime No.599/2024 registered with Wardha (City) Police Station upon furnishing P.B. of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties in the like amount.

- (iii) The applicant shall not directly or indirectly threaten, induce, pressurize, or dissuade the complainant or any prosecution witness, nor shall he tamper with the prosecution evidence.
- (iv) The applicant shall regularly attend the proceedings before the Trial Court unless specifically exempted by a competent order.
- (v) Bail before the learned Trial Court.
- (vi) Hamdast allowed.

Date :- 15.06.2026.

(S.T. Soor)
I/c Additional Sessions Judge
Wardha.

CERTIFICATE

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

(Madhav A. Chaudhari)
Stenographer