

ORDER BELOW BAIL APPLICATION OF THE ACCUSED
IN C. R. No. 806/2026 OF SAMTANAGAR POLICE STATION
(2012/BA/2026)

Present application is filed by Defence Advocate for releasing accused viz. Azam Abdul Gafar Khan on bail, for the offences p/u/s. 303(2), 324(5), 3(5) of BNS r/w Sec. 42 of Telecommunications Act r/w Sec. 3 of the Prevention of Damage to Public Property.

2. While deciding present application, two essential elements have to be determined :

- i. The role attributed to the present applicant.
- ii. Whether keeping of applicant in judicial custody shall facilitate the forthcoming investigation.

3. Perused application and say filed by Investigating Officer and APP. Heard both sides.

4. Perusal of remand report and say of Investigating Officer reveals that absconding accused Ayub Khan has deputed the present applicant for doing labour during actual commission of the said offence of theft. So there is prima facie involvement of the applicant in commission of crime.

5. Now let us determine if keeping of accused in the custody would facilitate forthcoming investigation :

In the instant case, four cables of 2000 pairs of 153 meters worth Rs. 9,00,500/- involved in the crime are yet to be recovered. As discussed aforesaid, there is prima facie involvement of the accused. The alleged theft is a matter of involvement of several accused. The investigation is at its preliminary stage as in same there is progress by arrest of other co-accused. However, yet property is not recovered. The property to be recovered is belonging to MTNL Department. The alleged offence is of serious nature. If the applicant is enlarged on bail, he may cause hindrance in the

forthcoming investigation. In result, for the reasons discussed aforesaid and in such set of facts and circumstances, the application deserves to be rejected. Hence, the Court proceed to pass following order :

ORDER

Application stands rejected.

(A. A. K. Shaikh)
Judicial Magistrate First Class,
17th Court, Borivali, Mumbai

Date : 10.08.2026

nmp