

R. A. No. : 2147/RA/2025
C. R. No. : 457/2025
Police Station : Oshiwara

Common Order below Bail Application No. 2012/2025

1. This is the application for releasing accused Narayana Poshayya Garige on bail. Read applications and say given by the learned A.P.P. The accused alleged to have committed the offences punishable under Section 316 (2), 318 (4) read with 3 (5) of the Bharatiya Nyaya Sanhita, 2023.

2. The applicant submit that, he is falsely implicated in the said matter. As per the first information report the amount and gold were taken by Ravindra Shinde and kept with Jayesh Shah. Therefore the applicant is not shown to be in the custody or possession of the alleged property. The investigation is completed and custody of accused is not at all required for any type of further investigation by the prosecuting agency. Further the accused is a victim of circumstances and does not have any connection with the offence. Hence, the applicant prayed for grant of bail. He is ready to abide by any conditions which will be put forth by the Court.

3. The investigating officer objected the application by filing reply. He submits that the offence is serious one and involves an amount of Rs.1,50,00,000/-. Still the co-accused are not arrested and investigation with regard to bank accounts has not taken place. Moreover, the applicant cannot deny his role as the offences committed in furtherance of common intention. If the accused is enlarged on bail it will not be possible for the prosecuting agency to find out the truth.

4. Ld. A.P.P. also objected the application. The Ld. APP submitted that, the offences are non-bailable. Further it involves huge amount and considering the gravity of the offence the accused does not deserves to be enlarged on bail. If accused is enlarged on bail there are chances that he

may tamper the prosecution witnesses. He lastly prayed for the rejection of application.

5. The facts which, needs to be considered while deciding bail application are as follows.

- 1) Nature of the accusation and the severity of punishment.
- 2) Apprehension of tampering with the witnesses.
- 3) Prima-facie satisfaction of the Court in support of the charge.

6. The learned counsel for the applicant argued that the dispute is purely of civil nature and the complainant has given it criminal colour. Further, the FIR is lodged at delayed stage i.e. after 15 months from the date of commission of offence. Pursuant to the complaint given by the informant Ghatkopar police has summoned the applicant on 07.05.2024. The Ghatkopar police duly investigated with the applicant, in respect of the complaint given by the informant and after inquiry police has found nothing incriminating against the applicant and therefore applicant is allowed to leave and the complaint was closed. He further argued that the ground of rejecting the bail for arresting the co-accused is not justified because the police very well knows where is Ravindra Shinde, but it is not arresting him on the ground of medical condition. He lastly argued that nothing is recovered from the applicant and not custodial interrogation is required and therefore, accused deserved to be enlarged on bail.

7. Perused the remand report and case diary. It appears that the accused was given in police custody for seven days but inspite of that there is no progress in the investigation. Nothing has been recovered or seized from applicant. At this juncture, it appears that there is nothing to establish that the accusation is well founded. Moreover, the date of offence is 20.01.2024 and FIR is lodged on 28.04.2025 i.e. after 15 months. In such circumstances, the question remains what purpose would be served by keeping the accused behind the bars. The ground that is the

chances of absconding and tampering of evidence can be curtailed by imposing conditions.

8. Bail is the rule and jail is the exception. The accused can not be kept behind the bar, for the reason that the offence is serious in nature. Thus, all the reasons cited by the Ld. A.P.P. for rejection of bail are not satisfactory. Segregation of accused from society by detention in jail will serve no fruitful purpose. But, it is also equally important that presence of accused in the society must be under surveillance. He should not be provided with any opportunity to abscond or tamper the evidence of prosecution. Hence, in my opinion, the applicant deserves to be released on bail. No purpose would be served by keeping the accused behind the bars. Hence, the order.

ORDER

1. Accused be released on P. R. Bond of Rs.25,000/- (Rupees twenty five thousand Only) with one solvent surety in the like amount subject to following condition :-

(a) The accused shall attend police station Oshiwara on every Sunday in between 10.00 a.m to 01.00 p.m. till filing of final report or 60 days whichever is earlier.

(b) The accused shall not tamper the prosecution evidence in any manner.

2. The accused and his surety shall submit their address proof and their working mobile numbers.

Date : 29.11.2025

(Shailja O. Pandey)
Judicial Magistrate (First Class),
Railway Court, Andheri Mumbai