

ORDER BELOW EXH. 6 and 14 IN RCC No. 53/2019

(State -Vs- Santosh Vinayak Wayal and others)

1. This is an application filed by the accused No. 1 and 2 through their advocate for releasing them on bail. Perused application and say filed by the APP. Heard both advocate at length.

2. The IO of Manchar Police Station had filed the charge-sheet as per section 299 of the Cr. P.C. for the offence punishable u/s. 3 and 7 of essential commodity Act. The NBW came to be issued against the accused person. On 20/07/2019 the accused person appear before the court. The NBW issued against them was cancelled and they were taken to the MCR till 03/08/2019. They were granted temporary bail as the advocate for accused submitted that the police never come to their residence and the accused person did not know that the offence was registered against them. The advocate for accused further submitted that the accused are respectable person in village Takewadi. Therefore there is no question of absconding the accused. Accused person have immovable property and agriculture land in Takewadi. This court had granted a temporary bail to the accused person with a condition that they will appear on 20/07/2019 as court timing on 20/07/2019 was ended.

3. Today the Ld. Advocate for accused reiterate the same argument as advanced by advocate for accused on 20/07/2019. Apart from that the Ld. Advocate for accused submitted that the offence under which the accused was booked are bailable offence. Hence the accused person are entitled to be release on bail.

4. The Ld. APP vehemently submitted that offence under

section 3 and 7 of the Essential Commodity Act are not bailable offence and prayed for rejecting the application.

5. It is not disputed that the accused person are respectable person in village Takewadi. It also appear that the police did not go to residence of the accused for inquiring and arresting them. The IO in this case did not inquire the matter diligently. Formally in order to reduce the cases pending for the submission of the charge-sheet, he filed the charge-sheet as per the section 299 of the Cr. P.C. The IO has created the problem in this case. The accused should not be made suffer for the mistake on the part of the IO. At the same time the IO should not be deprived of his right to investigate the matter as prima-facie it appears that the offence alleged to have been committed by the accused are non bailable offence. Under such circumstances it will be a just and proper for the accused to be continued on temporary bail till the say of the IO will be obtained. Hence following order.

ORDER

- 1) Temporary bail for the accused No. 1 and 2 will be continued till the next order of this court on this application. This order will not cause any prejudice to the right of the investigation officer in obtaining remand of the accused if required.
- 2) The IO of this case is to be intimated of the surrender of the accused and release of the accused on temporary bail. The IO is also directed to take a appropriate step and filed his say on this application.

Date : 22.07.2019.

(N. D. Meshram)
Judicial Magistrate First Class
Ghodegaon

CERTIFICATE

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

Name of the Steno	: Madhuri. V. Kanaki.
Name of the Court	: Judicial Magistrate First Class Court, Ghodegaon
Date of Order	: 22.07.2019.