



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2419 OF 2025

NISAR BEG AJIJ BEG
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mr. A. N. Raut
APP for Respondents-State : Mr. G. O. Wattamwar
Advocate for Applicant (Cri.Appln.) : Mr. V. S. Palsikar (Assit to PP)

WITH
CRIMINAL APPLICATION NO. 4749 OF 2025
IN BA/2419/2025

CORAM : SACHIN S. DESHMUKH, J.
Date : 17th January, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 20.05.2021 bearing Crime No. 134 of 2021 registered with Phulambri Police Station, Dist. Aurangabad for the offences punishable under Sections 420, 504 and 506 read with 34 of the Indian Penal Code.
2. In connection to the above offence, the applicant approached this Court presenting Anticipatory Bail Application No. 739 of 2021, where a statement was made on behalf of the applicant that an amount of Rs. 12,00,000/- would be deposited

with this Court. Considering this statement, the interim relief was granted. The said amount was to be deposited within a period of three weeks from the date of the order to show bona fides. On account of non-payment, a further time was extended by four weeks.

3. In spite of repeated extensions, the applicant did not comply. Resultantly, considering the conduct of the applicant, this Court by its order dated 26.10.2021, rejected the application presented by the applicant. After the rejection of the application by this Court, it appears that the applicant approached the Trial Court seeking his release on bail by presenting an application on 13.05.2022.

4. Upon completion of the investigation of the crime, the charge-sheet is filed on 13.05.2022. On the same date, the applicant surrendered before the Trial Court. Consequently, the application seeking bail was presented. The learned Trial Court was made to believe that the applicant is protected by this Court in an anticipatory bail application. As such, the learned Magistrate enlarged the applicant on bail.

5. Raising an exception to the same, the informant approached the learned Additional Sessions Judge, Aurangabad presenting a Cri. Misc. Application No. 337 of 2022 for cancellation of bail under Section 439(2) of CrPC. The learned Additional Sessions Judge, taking into account order dated 13.05.2022, is obtained by material suppression of facts. Resultantly, cancelled the bail of the application with a direction to surrender himself before the Trial Court.

6. The order of the learned Additional Sessions Judge was further subject matter of challenge in Criminal Writ Petition No. 323 of 2023 wherein this Court has endorsed the same by dismissing the petition presented by the petitioner predominantly on account of suppression.

7. It is submitted that, subsequently, due to the applicant's continuous absence during the trial, the Trial Court issued a Non-Bailable Warrant (NBW). In execution of the said warrant, the arrest of the applicant was effected on 10.11.2025. Following the arrest, the applicant moved an application for bail before the Trial Court. However, the same was rejected vide order dated 11.11.2025 and since then, applicant has been in judicial custody.

8. Subsequently, the applicant preferred Regular Bail Application No. 2336 of 2025 before the learned Additional Sessions Court, Aurangabad. The learned Additional Sessions Judge, considering the facts and circumstances, rejected the bail application. It is thereafter, the applicant has approached this Court seeking the grant of regular bail.

9. The learned counsel for applicant submits that applicant was initially enlarged on bail by the learned Trial Court on 13.05.2022. While a Non-Bailable Warrant (NBW) was subsequently issued due to the applicant's non-appearance, it is submitted that such absence was neither willful nor intentional, but was occasioned due to medical emergency of applicant. The applicant has already suffered incarceration since his arrest on 10.11.2025.

10. The learned counsel for applicant further submits that the applicant is ready to strictly abide by any and all stringent conditions that this Hon'ble Court may deem fit to impose, including marking his presence before the concerned Police Station and ensuring his punctuality before the learned Trial Court on every date of the proceedings. As such, prayed to allow the application.

11. The learned APP and the learned counsel for the informant vehemently opposed the application submitting that the conduct of the applicant disentitles to the discretionary relief of bail since the incident of misrepresenting the fact that his initial anticipatory bail application is rejected by this Court, still the learned Magistrate was made to believe that the applicant is protected. As such, the application does not warrant consideration.

12. Furthermore, the learned APP draws the attention of this Court to the criminal antecedents of the applicant, specifically noting his involvement in Crime No. 275 of 2019, registered at the City Chowk Police Station for similar offences. The Prosecution submits that the applicant is a habitual offender who has demonstrated a clear propensity to evade the law. As such, prayed for the rejection of the application.

13. Upon considering the submissions of both sides and perusing the material on record, including the charge-sheet, it is *prima facie* evident that the applicant is indulged in an act of suppression which was aimed to cause fraud upon the Court. The learned Magistrate was made to believe that the order of this Court granting interim protection in ABA No. 739 of 2021 was in vogue, which is factually incorrect.

14. This Court, taking into account the non-compliance by the applicant, already has rejected the anticipatory bail application by its order dated 26.10.2021. The learned Magistrate was thus misled believe that the applicant was protected by this Court in the anticipatory bail application. Apart from the fraud upon the Court, which is increasingly apparent, the fraudulent conduct of the applicant in deceiving the informant is also *prima facie* surfacing from the record.

15. Furthermore, the principle of "fraud on the court" as established in **S.P. Chengalvaraya Naidu Vs. Jagannath [(1994)1 SCC 1]** dictates that "*no court in this land, even if it be the highest court, can allow a person to get an advantage of an order or a decree by playing fraud.*" By suppressing the fact that the anticipatory bail application had already been rejected and misrepresenting the status of judicial protection to the learned Magistrate, the applicant has vitiated the entire proceeding. Since fraud unravels everything, any order obtained through such deliberate deception is a nullity in the eyes of the law, as a litigant who approaches the court with unclean hands and a dishonest intent has no right to be heard on merits.

16. Equally, it is evident that the primary ground for the

applicant's present incarceration is his prolonged absence during the trial. Although the applicant was granted the privilege of pre-arrest bail, however, having failed to honour the solemn undertaking given to the this Court. Such conduct amounts to a flagrant abuse of the liberty and has directly resulted in the stalling of a trial that originated in 2021.

17. Pertinently, this Court cannot overlook the fact that the applicant's presence could only be secured through the execution of a Non-Bailable Warrant, after a gap of over three years. The history of non-appearance creates a reasonable and well-founded apprehension that the applicant is at flight risk.

18. Moreover, the existence of adverse criminal antecedents, specifically Crime No. 275 of 2019 at City Chowk Police Station for similar offences, indicates that the applicant is not a first-time offender. The repetition of similar alleged offences while a prior case is pending, coupled with the deliberate suppression of material fact in the present case, demonstrates a persistent disregard for the judicial process.

19. The Hon'ble Apex Court in case of **Munnesh Vs. State of Uttar Pradesh [(2025) SC 605]** has observed as under :-

"11. However, before parting, we consider it necessary to dwell on one aspect. A growing trend is being noticed of individuals, seeking from this Court the concession of bail or concession of protection from arrest, not disclosing in the special leave petitions their involvement in other criminal cases. In such cases where involvement is not disclosed, on a *prima facie* satisfaction that long incarceration without reasonable progress in the trial is invading the right to life of the accused or that the offences for which the FIR has been registered are not too serious, notices are issued and only thereafter, information of criminal antecedents is being provided in the counter affidavits filed by the respective respondents-States, as in the present case. The result is that this Court, being the apex court of the country, is being taken for a ride. This Court has shown leniency in the past but we think it is time that such state of affairs is not allowed to continue further.

12. We, accordingly, direct that henceforth each individual who approaches this Court with a Special Leave Petition (Criminal) challenging orders passed by the high courts/sessions courts declining prayers under Sections 438/439 of the Code of Criminal Procedure, 1973 or under Sections 482/483, Bharatiya Nagrik Suraksha Sanhita shall mandatorily disclose in the 'SYNOPSIS' that either he is a man of clean antecedents or if he has knowledge of his involvement in any criminal case, he shall clearly indicate the same together with the stage that the proceedings, arising out of such case, have reached. Should the disclosure be found to be incorrect subsequently, that itself could be considered as a ground for dismissal of the special leave petition."

20. As has been held by the Hon'ble Apex Court in the case of **Munnesh** (supra), it was obligatory for the applicant to disclose the criminal antecedents, while presenting the bail application and

the same is not complied with.

21. In light of aforesaid peculiar circumstances, I am of the considered opinion that the interest of justice outweighs the personal liberty of the applicant. Granting bail to an accused with a proven track record of absconding and prior criminal involvement would undermine the authority of the Trial Court and further delay in the conclusion of the case.

22. Consequently, this Court finds no merit in the present application. The bail application deserves to be rejected.

23. Accordingly, the bail application is **rejected**.

24. Resultantly, pending criminal application also stands disposed of.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi