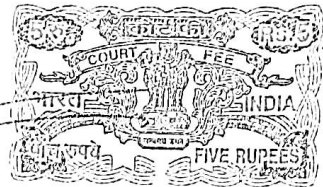


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IN THE COURT OF HON'BLE CHIEF JUDICIAL
MAGISTRATE, WARDHA.

(1027)

Criminal Appln. No. _____/13

In Reg.Cr.Case.No. 573/02

APPLICANT:

Sanjay Hariram Agrawal

Age: 43 years Occupation: Business

R/o Harisabha Street, Kidderpore

Kolkata-23

At Present District Prison Wardha.

-V/s-

NON-APPLICANT:

State of Maharashtra

Through P.S.O of P.S Wardha(City)

District: Wardha

C
pp to say
I/CJM
25/6/13

APPLICATION U/S 437(1)&(6) OF THE CRIMINAL
PROCEDURE CODE 1973 FOR GRANT OF BAIL.

ind copy

SKR
25/6/13

The applicant most humbly and respectfully submits as under;

1. That, on the report of complainant Gangadhar, special auditor
r/o Nagpur, dated 8/5/2002 an FIR was registered against 17
persons at P.S Wardha vide crime no. 110/02/124/02.

The police took up investigation and submitted the charge
sheet against 13 accused persons including the present
applicant as accused no.1

According to FIR and the brief charge sheet it is stated that the
Director, organiser and the members of Wardha Distric Central

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Application is strongly opposed.
the offence committed by the
applicant accused is serious
& huge amount of RS. 250000000 & more
involved in said crime.

The instant matter prosecution has
recently examined 11 witnesses
completely 12th witness is alleged
defence for cross examination.

1st witness examined on 20/5/13.
This Honble Court kindly perused
a case record, then it is clear that
accused no. 1 was consistently
sent for more than years. Further
have accused has continuously change
his residential address and this fact
also clear from record.

It is submitted that, prosecution/state
has to take much more efforts though
effort to secure the presence of accused.

If the accused is released on bail
then there is possibility of his absconding
and in that event matter will be unconsciously
rolling.

Already this Honble Court was pleased to
pass order on 20/5/2012 by ~~per~~ rejecting
the bail application under Exh. 350. And there is
prosecution has examined witnesses. But there is
no any change in circumstances for getting bail
for applicant accused.

Hence bail application may kindly be rejected
in the interest of justice

S.M. Dange
12/7/13

Bank, in violation of rules framed by Reserve Bank of India invested/diverted Rs. 25,24,72,083.33/-, on 12/11/01 with the Home Trade Company Ltd, Mumbai. 1028

The accused no. 5 to 13 figured in the charge sheet as the Director, organiser and member of the DCC Bank Wardha.

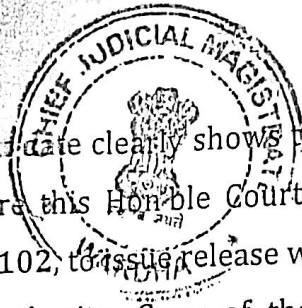
2. The applicant was arrested on 13/6/02, and the charge sheet was presented by the police before this Hon'ble Court on 18/11/02.

However during investigation the applicant had moved an application for grant of bail vide Ex.20, wherein this Hon'ble Court on 13/8/02 had directed the release of this applicant on his furnishing PR and SB of Rs.5,00,000/-.

As the applicant could not procure such solvent surety, on 16/4/2003 on his behalf an application dated 16/4/2003 at Ex.99 was submitted before this Hon'ble Court by his the then counsel Shri. Dubey to showing willingness to deposit cash security, accordingly this Hon'ble had allowed the counsel of the applicant to deposit Rs.50,000/- cash which came to be deposited on 17/4/03 before this Hon'ble Court. **(Copy of application for cash security and receipt deposit of payment of cash security before this Hon'ble Court are marked as Annexure A and B respectively)**

However as per the roznama dated 18/11/02, the date when charge sheet was submitted it is clearly noted therein that on that date this applicant was in jail at Mumbai, and he was not produced before this Hon'ble Court . Copy of the roznama is marked as **Annexure C**.

It is also pertinent to note that when cash security Rs. 50,000/- was deposited on behalf of this applicant on 17/4/2003, the



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...of that date clearly shows that this applicant was not
intimated before this Hon'ble Court and it was noted in the
...at Ex.102, to issue release warrant of this applicant to
Wardha Jail Authority. Copy of the roznama is marked as
Annexure D.

It is further pertinent to note that the Wardha Jail Authority
never returned the compliance order of release on bail of this
applicant to this Hon'ble Court. For the simple reason that this
applicant was confined in Lajpore Central Prison Surat from
9/1/03 till he was released on bail in the present crime no.
110/02 and 124/02 on 29/11/06.

Thus the order of this Hon'ble Court dated 17/4/2003 was
complied by the Superintendent of Lajpore Central Prison
Surat.

This compliance report was intimated to the superintendent
Wardha District Jail in pursuance of the inquiry made by the
superintendent Wardha District Jail by his letter dated 1/1/13.
This letter is marked as **Annexure E**.

3. It is submitted that as this applicant was not released in
pursuance of the bail order dated 17/4/03, his the then
advocate on 24/8/06 moved an application before this Hon'ble
Court vide Ex.195, wherein it was pointed out that this
applicant was continued to be in jail at Mumbai and later at
Central Jail Surat. It was also pointed out that no compliance
report of the bail was sent back to this Hon'ble Court, and
requested this Hon'ble Court to issue fresh release warrant.
Copy of the application is marked as **Annexure F**.

4. It is submitted that this applicant was released from Surat Jail
on 6/1/07,

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And as per the letter of the Superintendent of Central Prison Surat again on 18/8/09 he was again lodged at Lajpore Central Prison Surat on 18/8/09 and was released finally on bail in all cases from jail on 10/2/12.

5. It is submitted that as this applicant was in continuous detention in other jails till 10/2/12, obviously he could not appeared before this Hon'ble court. This fact stands fortified from the roznama of the case till 31/10/11 when the Wardha police intimated this Hon'ble Court that this applicant was detent in jail at Surat.

Accordingly as per roznama dated 31/10/11 this Hon'ble Court issued production warrant of this applicant to Surat jail through P.S Wardha.

After 31/10/11, as per next roznama's dated 16/11/11, 7/12/11, 20/12/11, 21/1/12 this applicant was not produced from the jail.

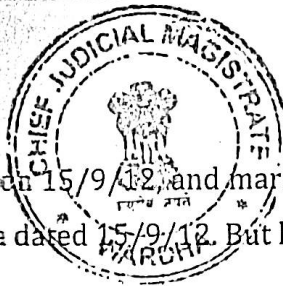
Thereafter on 28/2/12 this Hon'ble Court issued show cause notice to the superintendent of Surat Jail.

Thereafter as per roznama the accused was also not produced 28/3/12, 26/4/12, 12/6/12, 7/6/12, 11/7/12 and 4/8/12.

6. In the backdrop of above facts, according to record this application is moved on the merit as well as on the bail on default grounds as under;

GROUND:

- A. It is submitted that after having being release on bail in rest of the cases this applicant of his own appeared before this



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On 15/9/12, and marked his presence according to the writ dated 15/9/12. But he was taken into custody.

Immediately an application to release him on bail was moved by him, wherein his bonafides to face the trial and his physical inability to appear before this Hon'ble Court were pointed out. However this Hon'ble Court put up his bail application for consideration on 20/9/12. Copy of the application along with order is marked as **Annexure G**.

- B. It is pertinent to note that on 15/9/12 the applicant moved application Ex.357 praying for interim bail. This Hon'ble Court then and there ordered the release of this applicant on his PR and SB bond of Rs.50,000/- and immediately after compliance he was set at liberty. Copy of the application and order are marked as **Annexure H**.

This Hon'ble Court directed the applicant to remain present on 20/9/12. Accordingly on 20/9/12 this applicant re-appeared before this Hon'ble Court and on that day charges were framed against all accused persons.

From above facts it is clear that if this applicant wanted to abscond he would not have appeared before this Hon'ble Court on 15/9/12 and 20/9/12.

- C. It is submitted that as per the official authentic record this applicant was arrested on 13/6/2002 and was released in the present case from Surat jail on 29/11/06. Thus he was in detention for 4 years 5 months 16 days + he is again in continuous custody of this court from 20/9/12 till this date 25/6/13 which comes to 9 months 5 days. Thus his total detention in this case comes to 5 years 2 month 21 days. While the accused/present applicant is charged under 2 heads viz: u/s 406, which is punishable with imprisonment for 3 years

and u/s 420, which is punishable for imprisonment up to 7 years. Copy of the charge is marked as **Annexure I**.

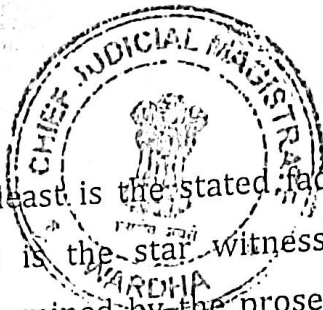
D. It is submitted that a fair trial to the accused and his right to be effectively defended is considered to be his constitutional right. In the present case all the rest of the accused playing much more major role are on bail, and thus they are in better position to do all needful in their respective defence while this applicant has been deprived of that liberty.

E. Now so far as section 437(6) of Cr.P.C is concerned. It is pertinent to note that as per roznama of this Hon'ble Court the first date to record evidence was fixed on 8/10/12 then 19/10/12, 30/10/12, 9/11/12, 23/11/12, 6/12/12, 14/12/12, 27/12/12, 4/1/13, 5/1/13, 9/1/13, 23/1/13, 5/2/13, 14/2/13, 28/2/13, 12/3/13, 22/3/13, 25/3/13, 1/4/13, 6/4/13, 8/4/13, 20/4/13. Thus from 8/10/12 the first date of the recording of the evidence till 20/4/13, during this 162 days some witnesses were examined, certain application were heard and decided.

But this applicant did not seek any adjournment or cost any delay in the recording of the evidence.

It is submitted that on 24/4/13 the application of this applicant for bail u/s 437(6) Cr.P.C was rejected by the Hon'ble Session Court.

However after 24/4/13 again the case for fixed for recording of evidence before this Hon'ble Court and that on 23/6/13 the next 60 days also lapsed, and for this 60 days this applicant is not responsible for any adjournment or delay. Therefore on this fresh mandatory legal ground the release of this applicant is humbly solicited.



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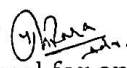
At the least is the stated fact that in this case the complainant who is the star witness by name Gangadhar was examined by the prosecution on 1/4/13, and was also cross examined by the then defence advocate of this applicant on record, and his cross examination by other accused was deferred, and the matter was next posted on 6/4/13, but on that date complainant Gangadhar remained absent. This way time and again the matter was adjourned and partial cross examination was done only by 2 accused persons. As can be seen from the roznama on 20/5/13 the cross examination of complainant was deferred by the advocate of accused no.2 and 4, and that status quo is stand as it is.

It is learnt that the complainant Gangadhar has left for U.S.A and his not likely to returned till November 2013, and hence unless the evidence of that star witness is completed this applicant has to languish in jail for next several months, and that too for no default on his part.

G. The applicant is a man of family consisting of his wife, children's and old aged mother. The applicant is ready to abide by any conditions as would be imposed by this Hon'ble Court. He is not likely to abscond and will face the trial.

PRAYER: - It is therefore most humbly prayed that in the interest of justice the applicant be admitted to bail in the Reg. Criminal Case No. 573/2002, pending before this Hon'ble Court punishable u/s 406 and 420 IPC registered at P.S. Wardha.

Submitted on:


Counsel for applicant