

**ORDER BELOW EX. 01 IN CRIMINAL BAIL APPLICATION  
NO. 212 OF 2022**

{Janardan Laxman Kakad alias Janya vs. The State of Maharashtra  
through Panchavati Police Station}

This is the bail application under section 439 of the Criminal Procedure Code, 1973 filed by the applicant-accused in crime No. 371 of 2021 registered with Panchavati Police Station, Nashik for the offences punishable under sections 302, 341, 212, 120B read with 34 of the I. P. C. and 142 of the Mumbai Police Act.

02] The applicant contended that false and fabricated case is registered against him. He is innocent. He is falsely implicated in the crime. Nothing has been seized from the accused. He is reputed person in the society. His parents are dependent on him. His role at the most is as per section 212 of the I. P.C., which is punishable up to 5 years of imprisonment. He is ready to abide by any conditions imposed by the court. He has prayed for grant of bail. So, he has prayed for grant of bail.

03] learned APP has filed say at Ex. 04 and I. O. has also filed say at Ex. 05. They have stated that on the say of accused nos. 5, 1 and 3 killed the deceased. Knowing it, the accused no. 5 helped accused nos. 1 and 2 for fleeing. The accused is residing in the vicinity where the complainant and the witnesses are residing. If he is released on bail, he may threaten them. One criminal case under section 143, 147, 148, 149, 323, 324 of the IPC along with section 135 of the Bombay Police Act is pending against him. His previous bail application was rejected. Now, charge sheet is filed in the court. They have prayed for rejection of bail.

04] Heard the learned counsel for the accused and learned APP. They have argued as per the above stand taken. The learned counsel for the accused has relied on **Muddassar Nijam Momin vs. State of Maharashtra reported in LAWS(BOM) 2009 6 191**, in the context –

the role of the accused is at the most under section 212 of the IPC. Looking to his role, bail granted.

05] I have gone through application, say, arguments, Police papers and case law. Learned APP and learned counsel for the I. O. has assisted the court in going through the facts of the case. In none of the statements of the witnesses, the name of present accused is revealed as a conspirator or main accused in the crime. The role assigned to the present accused is that he assisted the Juvenile offenders in escaping after the crime was committed. So, his role appears to be to assist the accused after commissions of the crime under section 212 of IPC. His name is revealed from the statement of the accused. Otherwise, there is no evidence against him except the phone call between him and the main accused. His previous bail application was rejected as the investigation was in progress. The cited case law of **Muddassar (supra)** applies to the facts of this case as the role of the accused is similar to that, in that case. Accused is entitled for conditional bail. Hence, the following order:

### **ORDER**

- 01] Application is allowed.
- 02] Accused namely Janardan Laxman Kakad alias Junya be released on bail on executing personal bond of Rs. 25,000/- with solvent surety in the likewise amount each in crime No. 371 of 2021 registered with Panchavati Police Station, Nashik for the offences punishable under sections 302, 341, 212, 120B read with 34 of the I. P. C.
- 03] The accused shall attend police station, as and when his attendance is required by the I. O.
- 04] He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer to tamper with the

evidence.

- 05] He shall not tamper the prosecution evidence in any manner.
- 06] He shall not leave India without permission of this court.
- 07] He shall not commit similar type of offence.
- 08] He shall furnish his detailed address with proof and his mobile numbers.
- 09] Bail before concerned court of Judicial Magistrate First Class.

Date : 21.02.2022

(R. R. Rathi)  
Additional Sessions Judge-5,  
Nashik.