

**IN THE HIGH COURT AT BOMBAY  
APPELLATE SIDE, BENCH AT AURANGABAD  
CRIMINAL APPLICATION NO. 2378 OF 2012**

Swapnil Sanjay Dandnaik,  
Age 31 yrs., Occu. Business,  
R/o. Zenda Chowk, Shrigonda,  
Tq. Shrigonda, Dist. Ahmednagar.

**....Applicant.**

**Versus**

The State of Maharashtra

**....Respondent.**

Mr. N.S. Ghanekar, Advocate for applicant.

Mr. N.R. Shaikh, A.P.P. for State.

**CORAM : T. V. NALAWADE, V.J.**  
**DATED : 31st May, 2012.**

**PER COURT :**

1. This application is filed for bail on the ground of default. Both the sides are heard. Copies of orders passed by the J.M.F.C. and Sessions Court are produced.

2. The applicant came to be arrested in the crime registered under sections 306, 498-A, 34 of I.P.C. on 7.3.2012 and he came to be produced before the J.M.F.C. on 8.3.2012. On that day, the applicant first came to be committed to custody under

judicial order. The application for bail came to be made on the ground of default (under section 167 (2) of Criminal Procedure Code) on 7.5.2012 i.e. after completion of 60 days from the date of order dated 8.3.2012. The chargesheet was not filed till that date.

3. The J.M.F.C. and Sessions Court have considered the decision given by the Apex Court which is reported as **AIR 2006 SC 2622 (Bhupinder Singh and Ors. Vs. Jarnail Singh and Anr.)**. The Apex Court was considering the case in which the offence punishable under section 304-B of I.P.C. was also involved and the Apex Court held that the permissible period for filing Chalan is 90 days for such offence. On the other hand, the advocate for the applicant relied on the case reported as **2006 ALL MR (Cri) 3110 (Nijamuddin Mohammad Bashir Khan & Anr. Vs. State of Maharashtra)**. In this case, this Court has considered the provisions and the offence involved was punishable under section 366 of I.P.C. For offence punishable under section 366 of I.P.C. the punishment provided is imprisonment which may extend to 10 years. For the offence punishable under section 306 of I.P.C. also the punishment provided is imprisonment which may extend to 10 years. This Court has held that in the case cited supra, the prescribed period

for filing the chargesheet for the said offence is 60 days. In view of this position of law, this Court holds that the applicant is entitled to bail on the ground of default and pass the following order.

**O R D E R**

- (i) The application is allowed.
- (ii) The applicant is to be released on bail on his furnishing P.R. and S.B. of Rs. 25,000/- (Rupees twenty five thousand) on condition that he is not to tamper with the prosecution witnesses.

**[ T. V. NALAWADE ]**  
**Vacation Judge**

ssc/