

previous bail application, directed the trial to be expedited and completed within a period of six months from the date of receipt of the order dated 04/07/2014 by the trial Court. Now, the prayer for bail is renewed on the ground that the period stipulated by this Court by the said order is over and that, the trial has not yet commenced.

3. In these circumstances, a report was called for from the trial Court as to the circumstances resulting in the delay in holding the trial. Such report has been received, and I have gone through the same. It appears that the First Informant had sought appointment of Special Public Prosecutor by writing to the Law and Judiciary Department and that, on the ground that the Special Public Prosecutor was to be appointed, a number of adjournments were sought and granted. It appears that a Special Public Prosecutor was appointed only on 07/02/2015. The Special Public Prosecutor made an application before the Court, purportedly under the provisions of Section 173(8) of the Code of Criminal Procedure for carrying out further investigation by the Investigating Agency in the matter. This application has been allowed. Thereafter, the prosecution had filed another application for 'extension of time' to complete further investigation that is going on. It is not in dispute that the report of further investigation have not been filed. The learned APP, however, submits that report of the further investigation would be filed within a short time.

4. Nevertheless, in the circumstances, I have examined the matter on merits. It is because the learned counsel for the applicant contended that the applicant had a good case for being released on bail.

5. With the assistance of the learned counsel for the applicant and the learned APP, I have carefully gone through the entire charge sheet, copy of which is annexed to the bail application. I have also carefully gone through the report filed by the Senior Police Inspector, Juhu Police Station, Mumbai, which was made available for perusal of this Court by the learned APP. This report gives the details of the material that is available against the applicant.

6. The case against the applicant is based on circumstantial evidence. After carefully going through the entire charge sheet and the report submitted by the police, it is clear that the main circumstance against the applicant is that he absconded after the incident. Though, this by itself, is sufficient to create strong suspicion against the applicant, in the investigation that was carried out, no further or additional material could be collected against the applicant.

7. Part of the robbed property is said to have been recovered from the bag belonging to the applicant, but admittedly,

the bag was not possessed by the applicant at the material time. The alleged fact that the bag is of the applicant is sought to be established on the basis of the statement to that effect allegedly made by the co-accused Bhimsing.

8. The learned counsel for the applicant pointed out that the list of the entire robbed property was not given at one time and that, there were additions therein in the supplementary statements that came to be recorded in the course of investigation.

9. The learned counsel for the applicant also contented that date and time of the arrest of the applicant and other accused as shown by the Investigating Agency is not reliable. She has pointed out some material which indicates that the accused No.1 Prembahadur was already available to the police on 01/09/2011 itself, though the arrest is shown effected on 04/09/2011 at Nanded.

10. Considering that the case against the applicant is based only on the solitary circumstance i.e. after the incident he absconded and, the fact that he is in custody for a period of more than three years, as also the fact that the trial could not be held expeditiously in spite of directions given by this Court, and all other relevant aspects of the matter, I am inclined to release the applicant on bail, subject to certain conditions.

11. The application is allowed.
12. The applicant is ordered to be released on bail in the sum of Rs.50,000/-, with one surety in the like amount, or two sureties in the sum of Rs.25,000/- each, on the following conditions:
- (i) The applicant shall not contact, meet or approach any of the prosecution witness in any manner whatsoever;
 - (ii) The applicant shall report to the trial Court on every working day, till the disposal of the case against him.
13. The application is disposed of accordingly.

(ABHAY M. THIPSAY J.)