

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

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CRIMINAL BAIL APPLICATION NO.2515 OF 2014

Irfan Chand Shaikh	.. Applicant
Vs.	
The State of Maharashtra	.. Respondent

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Ms.Swapna P. Kode, Advocate for the Applicant.
Mrs.M.R. Tidke, A.P.P. for Respondent – State.
Mr.M.B.Chavan, API, Haveli Police Station, Pune (Pune - Rural)

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CORAM : ABHAY M. THIPSAY, J.

DATED : JANUARY 16, 2015.

P.C. :

Heard Ms. Kode, the learned counsel for the applicant.

Heard Mrs.Tidke, learned A.P.P. for the respondent – State of Maharashtra. Counter affidavit filed by the investigating officer is taken on record.

2 The previous applications for bail filed by the applicant were rejected by this Court (B.,A.No.327 of 2013, decided on 21.03.2013 and B.A. No.469 of 2013, decided on 13.07.2013). Now the prayer for bail is renewed primarily on two ground namely :- that inspite of the fact that the applicant is in custody since May 2011, the

trial has not yet commenced, and secondly, that the co-accused to whom a similar role has been attributed have already been released on bail.

3 Undoubtedly, there exists a *prima facie* case of serious offences against the applicant. In the circumstances, it was thought fit to call for a report from the trial Court as to the present stage of trial and approximate time that would be required to complete it. I have gone through the report submitted by the trial Court in that regard. It appears that no charge has yet been framed. The reason for the same, as given by the learned judge is the non production of the accused persons before the trial Court on the dates on which the case is fixed. The learned Judge has reported that the present applicant has not been produced before the Court since September 2014. One of the accused who has been released on bail, has been externed.

4 The role of the applicant appears to be on par with that of the co-accused Anwar Shaikh, Rafiq Shaikh and Farooq Anwar Shaikh. Anwar Shaikh has subsequently murdered by the first informant in this case, who has been arrested in connection with the said murder. Rafiq Shaikh has already been released on bail, as investigation could not be completed within a period of 90 days from

the date of his detention in custody. Farooq Anwar Shaikh has been released on bail by me by an order dated 21st July, 2014.

5 As already observed, the applicant is in custody since May 2011 and even the charge has not yet been framed. The State has contributed to the delay in holding the trial by externing some of the accused during the pendency of the trial and by non-production of the accused who are in custody on the date of hearing. Moreover, the case of the applicant cannot be treated very differently from the case of the co-accused Rafiq and Farooq Shaikh, who have, as aforesaid been released on bail. Though Rafiq Shaikh has been released on bail because investigation could not be completed within the maximum period provided by Section 167(2) of the Code, the fact remains that his role in the alleged offence is on par with that of the applicant, and still he he has been released.

6 Considering all the relevant aspects of the matter, I am inclined to grant one opportunity of availing of liberty to the applicant.

7 Application is allowed.

8 The applicant is ordered to be released on bail in the sum of Rs.50,000/- (Rupees Fifty Thousand), with one solvent surety in the like amount, on the following conditions:-

(i) The applicant shall not contact, meet or approach any of the prosecution witnesses, in any manner, whatsoever.

(ii) The applicant shall not reside in or enter within the local area of Pune City and Pune District, till the conclusion of the trial, except for the purpose of attending the trial Court on the given dates. The applicant shall again remove himself out of the local area of Pune city and Pune district, immediately after the hearing of the case would be adjourned.

(iii) The applicant shall furnish his address where he would be residing, in writing to the trial Court as well as to the investigating officer, within 48 hours from his actual release on bail.

(ABHAY M. THIPSAY, J.)