

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**BAIL APPLICATION NO.2254 OF 2015**

Mangesh Raghunath Tawre

... Applicant

Vs.

State of Maharashtra

... Respondent

Mr.A.P. Mundargi, Senior Advocate i/b Mr.Debajyoti Talukdar and  
Ms.Nagma Tandon for the Applicant  
Mr.Arfa Sait, APP, for Respondent – State  
Mr.S.B. Pachorkar, P.I., Market Yard police station, Pune - present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **10<sup>th</sup> FEBRUARY, 2016**

**P.C.:**

1. This is a second bail application moved by the applicant/accused as his earlier bail application No.222 of 2012 was rejected on 24.3.2015. The applicant/accused is facing charges under sections 302, 307, 363, 364, 120B, 201, 143, 147, 148, 149, 323 and 504 of the Indian Penal Code r/w section 37(1)(b) of the Bombay Police Act.

2. Earlier, while rejecting the first application for bail, it was observed that there were four cases pending against the applicant/accused at the relevant time and that was considered a major ground not to consider the case under the principle of parity when some of the co-accused were granted bail. The learned Senior Counsel appearing for the

applicant/accused submits that this second bail application is preferred in view of the subsequent developments which have taken place after 24.3.2015 i.e., the date on which the first application was rejected. The learned Senior Counsel submitted that at that time, four causes were pending against the applicant. However, as on today, out of the four cases, he is acquitted in three cases and one case under the Arms Act is pending against him. The learned Senior Counsel further submitted that the co-accused Shakeel Razzaq Shaikh, who is accused No.4, in the chargesheet was granted bail on 21.7.2015 though 15 cases are pending against him. Thus, bail was granted to him after rejection of the bail to the present applicant/accused. The learned Counsel submits that of all the accused, as on today, only the present accused is detained behind bars. He further pointed out that this Court has granted liberty to move the second bail application if the trial would not commence within six months from the date of the order.

3. Per contra, the learned APP has opposed the application. He submitted that though the application of Shakeel was allowed, the prosecution has moved an application for cancellation of the bail granted to Shakeel as he has threatened the complainant and he also failed to attend the police station. It is submitted that there is no delay on the part of the prosecution to go ahead with the matter as the prosecution is

interested in proceeding with the matter. He further submitted that the acquittal of the applicant in three cases is not a clear acquittal and that is not to be taken into account while hearing this bail application. He relied on the Roznama of the trial Court to show that the delay is caused due to the fault of the defence. He further submitted that the draft chargesheet is also submitted by the prosecution before the trial Court.

4. Heard the learned Senior Counsel for the applicant and the learned Prosecutor. Perused the earlier order dated 24.3.2015. In the said order, this Court has held that the submissions of the learned Senior Counsel that this case might not fall u/s 302 of the Indian Penal Code. While rejecting the bail, the major ground was the pendency of four cases against the applicant/accused. Six months time was granted to the trial Court to commence the matter. However, as per the information received from the prosecution, the charge is not yet framed by the trial Court even after nearly 11 months of passing of the said order. The fact of acquittal of the applicant/accused in the pending three cases, is not disputed by the prosecution. Thus, as on today, only one case is pending against this applicant/accused. Therefore, I am of the view that this is a change of circumstance. The applicant/accused has been in prison since last two years.

5. In this view of the matter, as there is a change of circumstance, I allow this application for bail of this accused on the following terms:

- i) The applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount;
- ii) The applicant shall not leave the country without prior permission from the Court;
- iii) The Applicant shall not tamper with the evidence
- iv) The applicant shall attend all the Court dates;
- v) The applicant shall not jump the bail.

6. Bail application is disposed of accordingly.

**(MRIDULA BHATKAR, J.)**