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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2413 OF 2015
WITH
CRIMINAL BAIL APPLICATION NO. 2414 OF 2015

Shehzad Shaikh Mehmood	 Applicant
V/s.	
The State of Maharashtra	 Respondent

Mr. Sanjiv Punalekar, for the Applicant.
Mr. Deepak Thakery, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 30th JUNE, 2016.

P.C. :

1. The applicant/accused in crime No.145 of 2012 and 34 of 2013, for offence punishable under Sections 406 and 420 of the Indian Penal Code and under Section 3 of the Maharashtra Protection of Interest of Depositors Ac, registered with Azand Nagar Police Station, Malegaon, by this application is praying for releasing him on bail.
2. Heard the learned counsel for applicant. By drawing my attention to the orders of this Court, passed on 2nd August, 2013 and 14th August, 2013, in Criminal Bail Application No.1089 of 2013 and Criminal Bail Application No.1338 of 2013, the learned counsel argued that on

identical facts, present applicant is already ordered to be released on bail by this Court. He further pointed out that though he applied for bail in these crimes, by order dated 3rd February, 2013, application was disposed of as withdrawn with liberty move after one year, if trial is not concluded. Thereafter on 13th March, 2015, subsequent application came to be disposed. The learned counsel argued that as yet, trial has not proceeded an inch ahead and the applicant is behind the bar for a period of 3 years and 9 months. My attention is also drawn to the provisions of Section 437 (6) of the Code of Criminal Procedure to submit that the applicant has already undergone more than half of the maximum sentence which can be imposed on him.

3. I also heard the learned APP. According to learned APP as earlier Bail Applications of present applicant are already dismissed, present applications are also required to be dismissed. There are no change in circumstances.

4. It is seen that present applicant is already released on bail in Crime No.80 of 2012 and 89 of 2012, registered with Azad nagar Police Station, Malegaon. When bail application in Crime numbers in question came up before this court, in the year 2013, this court granted liberty to the applicant to move after one year, there is if no scope for conclusion of trial within a period of one year. Subsequently also on 3.3.2015, this Court

directed the trial Court to expedite disposal of case against present applicant within a period of nine months from the date of that order dated 13th March, 2015. It is seen that in MPID Case No.68 of 2015 arising out of Crime No.145 o 2012 and in MPID Case No.67 of 2015 arising out of C.R.No.34 of 2013 charges have already been framed by the learned trial Court on 15.9.2015.

5. The learned counsel for applicant submits that as on date, not a single prosecution witness is examined in both these case. This fact definitely amounts to change in circumstances as earlier bail applications of present applicant were disposed of with the hope that there is possibility of conclusion of trial in near future.

6. The avernments against the present applicant as well as co-accused are to the effect that they had induced the informant to invest amounts in the saree business conducted by present applicant and co-accused with an assurance that the investors will get heavy returns. However, as agreed neither returns were given to the informant nor amounts came to be refunded.

7. Be that as it may, as seen from un-controverted statement of learned counsel for applicant that there is no scope for conclusion of the trial in near future and the applicant is already released on bail in two identical crimes, by this Court. In the matter of **Kalyan Chandrashekhar Sakar -vs- Rajesh Ranjan (2005) 2 SCC 42,**

Hon'ble Supreme Court has held that seriousness of allegations and or availability of material in support thereof are not only consideration for denying bail. The delay in commencing and conclusion of trial is also relevant factor for grant of bail. Section 437(6) of Code of Criminal Procedure as such assumes importance on this background facts.

8. In the result, considering all relevant aspects, pretrial detention of the present applicant is not warranted and therefore, following order.

Order

- I) Applications are allowed.
- II) Applicant/accused arrested in connection with crime Nos.34 of 2013 and 145 of 2012, registered with Azad Nagar Police Station, Malegaon, he be released on bail on his executing P.R. Bond in the sum of Rs.1,00,000/- separately in each of crime and on his furnishing sureties in the like amount.
- III) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
- IV) The applicant shall attend the trial scrupulously and shall co-operate the trial Court in expeditious disposal of the same.
- V) The applicant shall not tamper with the prosecution evidence in any manner.

[A. M. BADAR, J.]