

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2565 OF 2016

Mr. Aajgarali Anwar Ual Shaikh ...	Applicant
Vs.	
The State of Maharashtra ...	Respondent

Mr.Niranjan Mundargi i/b. Mr. Vinayak Patil,Advocate for the applicant.
Mr.R.M.Pethe,APP, for the State.
Mr. R.K.Jadhav, PSI, Shivaji Nagar Police Statiion present.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 14th February, 2017.

P.C.

The learned APP submits that in the present case, the trial has commenced and the applicant herein is arrested on 6.6.2016 in Crime No.179 of 2014 registered at Shivaji Nagar Police Station on 28.4.2014 for the offences punishable under Sections 307, 143, 144,147,149, 506(II) of the Indian Penal Code, Sections 4 and 25 of the Arms Act, Section 37(1)(A) of Bombay Police Act. The learned APP, at he outset, submits that in the present case, the trial has commenced and 3 witnesses are examined and therefore it would not be appropriate to consider an application under Section 439 of Cr.P.C.

2. The learned counsel for the applicant submits that the applicant was arrested in Crime No.365 of 2013 registered at Shivaji Nagar Police

Station. The case was registered as C.C. No.260/PW/2015. That from the record it appears that when he appeared before the Court in C.C. No.260 of 2015, he was arrested in Crime No.149 of 2014. The learned counsel for the applicant submits that since both the cases were registered at Shivaji Nagar Police Station, the applicant could have been transferred in Crime No.149 of 2014. However, he was shown as absconding. All the co-accused in Crime No.179 of 2014 have been enlarged on bail. The learned counsel has also drawn attention of this Court to the proforma of charge-sheet which does not even remotely indicate that the present applicant was absconding or was a proclaimed offender and therefore was not arrested. The charge-sheet is also not filed under Section 299 of Cr.P.C.

3. The learned APP submits that, in view of the fact that trial has commenced, the applicant does not deserve bail as he was absconding. It is doubtful as to whether the applicant can be shown as absconding in Crime No.179 of 2014.

4. The learned counsel for the applicant, upon instructions, submits that the last witness was examined way back in 2015 and even prior to the arrest of the present applicant and thereafter the trial is proceeding at a snail's pace. In the peculiar facts and circumstances of this case, the learned Sessions Judge seized with Sessions Case Nos.602 of

2016 and 752 of 2014 shall conclude the recording of substantive evidence, as far as possible, within six months from the date of receipt of this order. this would be necessary in view of the fact that the co-accused to whom specific role has been attributed, have been enlarged on bail. The learned Sessions Court shall also ensure that the present applicant is produced before the Court on each and every date, upon failure may take appropriate action.

The application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)