

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 1148 OF 2017

Sajish Ashok Kurvat. ... Applicant.
Versus
The State of Maharashtra. ... Respondents.

Mr. Aniket U. Nikam i/b. Mr. Aashish Satpute, advocate for Applicant.

Mr. S.R. Agarkar, APP for State.

Mr. A.L. Gavari, PSI, Hinjewadi Police Station, Pune City.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 24, 2018**

P.C.:

1 Heard this application under section 439 of the Code of Criminal Procedure, 1973 at length on the grounds, firstly that the trial is delayed, secondly that the co-accused are enlarged on bail and thirdly on the ground that trial is being protracted at the behest of the complainant.

2 The applicant herein is charge-sheeted for an offence punishable under section 302, 143, 147, 149 of the Indian Penal Code. Taking

into consideration the fact that the charge was framed against the accused in the year 2013 and there was no progress in the trial, this Court had called for a report from the Sessions Court seized with the Sessions Case No. 190 of 2011 through Registrar (Judicial I).

3 The report is filed on record in this case. It is reported that the complainant is also in custody. It is reported that on 29/11/2017 although the complainant was produced for the purpose of recording of evidence, he was not willing to step into the witness box and therefore, he was again produced on 19/12/2017. However, on that day, the co-accused had filed applications seeking time, as they intended to change the advocate.

4 Considering gravity of the offence, this Court is not inclined to consider the application on merits. It is reported that the brother of the applicant who happens to be the co-accused has sustained gun shot injuries and has been advised bed rest. In such circumstances, a duty is cast upon the presiding officer to see that the trial is

expedited. The learned Sessions Court would be at liberty to take coercive action against the prosecution or the defence, in the eventuality it is brought to the notice of the court that there is unwarranted delay in concluding trial.

5 The applicant is in custody since 2012. Trial cannot be allowed to remain pending for more than 5 years, as there are specific directions from the Hon'ble Apex Court. It is in these circumstances that the Sessions Judge, Pune is hereby directed to conclude recording of evidence in Sessions Case No. 190 of 2011 by giving priority, within 9 months from the date of receipt of this order.

6 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)