

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

BAIL APPLICATION NO.2466 OF 2018

Balkrishan @ Bala Muniyam Argam Applicant

Vs.

The State of Maharashtra Respondent

Ms. Anjali Patil for the Applicant.

Mr. S.H. Yadav APP for the State.

Mr. D.M. Umak, Jailor-II, Thane District Prison present

Coram : Smt. Sadhana S. Jadhav, J.

Date : 19th December 2018

P.C.:

1 This is a subsequent application seeking enlargement on bail in pursuance of the order dated 18th December 2018.

2 Learned counsel, Ms. Patil for the applicant has fairly submitted that today is the scheduled date before the Sessions Court and the accused has been produced by the Jail authorities. The examination-in-chief of PW-2 is in progress. In view of this, learned

counsel, Ms. Patil submits that she is hopeful that the accused will be produced on each and every dates and that trial will be expedited and recording of evidence would conclude on/or before 30th June, 2019. Hence, upon instructions, she seeks liberty to withdraw the application. Liberty as prayed for is granted in the interest of justice. The matter does not end here.

3 Today, the Jailor of Central Prison, Thane is present before the Court. He has placed a chart, which shows that on the scheduled dates, the Commissioner of Police had not provided the police escort for taking the accused to the Court and therefore the Jail Authorities could not facilitate the presence of the accused at the time of the trial and in the midst of the trial. In fact, it is incumbent upon the Commissionerate to give priority to the Court cases as there are specific directions from the Hon'ble Apex Court that the cases of the under trial prisoners shall be taken on priority basis.

4 Taking into consideration the time spent in Jail as an under trial, the Legislature has introduced Section 436(a) of Cr.P.C.,

where the accused who has put in more than half of the contemplated sentence in Jail would be entitled to be enlarged on bail. The Court has to be sensitive to the rights of the accused also. The accused deserves a fair trial and also expeditious trial.

5 The Police Commissioner, Thane shall consider these aspects. Incarceration pending trial should not amount to punitive detention and hence in each and every cases, the Police Commissioner of Thane shall take effective steps to produce the accused before the trial Court on the scheduled dates.

6 The application stands disposed of.

7 Copy of this order be sent to the Commissioner of Police, Thane.

(Smt. Sadhana S. Jadhav, J)