

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3013 OF 2017

Parmeshwardin Pal

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Shyamrishi Pathak for the Applicant

Mrs.Veera Shinde, APP, for Respondent – State

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: JANUARY 12, 2018

P.C.:

1. This is another Application for bail. The applicant/accused is facing charges for the offences punishable under sections 420 and 420 r/w section 34 of the Indian Penal Code. I had rejected the earlier two bail application No.2303 of 2016 on 1.2.2017 on the ground that the case is of a repetitive illegal acts committed with conspiracy and considering the volume of amounts and 45 persons who were deceived, it was rejected. His second Bail Application No.1692 of 2017 was also rejected by order dated 12.10.2017. It was pointed out that his wife and other co-accused were released on

bail and the applicant/accused is in prison since last two years. The said Bail Application was made under section 437(6) of the Code of Criminal Procedure as though the charge was framed on 14.2.2017, the matter was not concluded within 60 days from the date fixed for taking evidence. At the time of hearing of the said application, the Investigating Officer has informed that the prosecution wanted to examine 20 witnesses and, therefore, I found it is reasonable to grant 40 working days to complete 20 witnesses and the trial Court was directed to take up the matter day to day and follow the procedure laid down under section 309 of the Code of Criminal Procedure. However, till today, the trial is not concluded and hence, this application.

2. The learned Counsel for the applicant/accused submits that there is zero progress in the matter since 12.10.2017. At that time, only one witness was in the box and only the complainant i.e., PW1 was in the box and still his evidence is not over. He further submitted that the learned JMFC sought extension of six months and by order dated 21.12.2017, got the time extended by six months. He submitted that the police have filed the report under section 169 exonerating the co-accused Madan Mishra and now the trial Court

directed further investigation against him and hence, this is going to delay the matter further. He submitted that the accused is facing the charges of cheating, misappropriation of amount for which he cannot be kept behind the bars for more than two years. He relied on the Roznama of the Court, produced by him.

3. Learned Prosecutor has opposed the application and submitted that the prosecution is ready to go with the matter everyday and the police have kept the witnesses present. But due to the crowding of many cases, it is not possible to go ahead with the matter by keeping this matter day to day.

4. Perused the record and the earlier orders passed by this Court. I am shocked to come across the fact that there is no progress in the trial since 12.10.2017 in which specific directions were given to the trial Court to take up the matter day to day. It is to be noted that to take up the matter day to day is not an empty formality by the trial Court but it should be a meaningful exercise of the power and the procedure laid down under section 309 of the Code of Criminal Procedure. A trial Judge needs to understand the object of a particular section and the use of the section for which the Legislature has enacted the same. The trial Court Judges to inculcate the

culture of keeping part heard matters on day to day basis. The matters can be heard day to day and trial / Suit can be concluded. It is possible. This procedure was followed earlier, which ultimately gives excellent disposal. Moreover, it helps the Judge to decide the matter effectively and speedily because the evidence is fresh in the mind. It is a matter of time and case management. The trial Judge needs to be very disciplined about the cases, the schedule of the cases and recording of evidence. He must keep in mind the witnesses should not go back without recording of their evidence. This is the responsibility of the trial Judge only. Accordingly the trial Judge should give timetable to the prosecution as well as the defence as to how many witnesses he or she is going to examine and it is possible for him or her to examine the same. The witnesses are to be respected and accommodated properly and their time is to be utilised best on each date by putting them in the witness box.

5. Thus, considering the submissions of the learned Counsel for the appellant and the charges for which he is facing the trial which is not of a capital nature and as the matter is not proceeded, on this ground, I grant bail to the applicant/accused on the following terms and conditions:

- a) The applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) with one or two solvent sureties in the like amount and one of which is a local surety;
- b) The applicant shall attend all the Court dates and also attend the concerned police station on every Monday and Friday between 10am to 1pm.
- c) The applicant-accused shall not tamper with the evidence.
- d) The applicant-accused shall not indulge into any criminal activity;
- e) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.
- f) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. Bail Application is disposed of in the above terms.

(MRIDULA BHATKAR, J.)