

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

BAIL APPLICATION NO.905 OF 2019

Siddhesh Sudhir Tare @
Sidhesh Nagvekar

.. Applicant

Vs.

State of Maharashtra

.. Respondent

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Mr.Chaitanya Pendse i/b. Mrs.Prabha Badadare a/w. Miss.Siddhi Bosale, Mr.Rohit Shewate, Mr.Parth P. Shah, Advocate for the Applicant.

Ms.P.P. Shinde, APP for Respondent – State.

Mr.H.S. Kumbhare, Police Sub-Inspector, L.T. Marg Police Station, Mumbai, present.

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**CORAM : PRAKASH D. NAIK, J.
(CHAMBER MATTER)**

DATED : AUGUST 09, 2019.

P.C. :

This is second application for bail. The earlier application viz. Bail Application No.1299 of 2018 was disposed of vide order dated 11th September, 2018, by permitting applicant to withdraw the said application. The application is listed before me in pursuant to the order dated 11th July, 2019 passed by regular Court.

2 Learned counsel for the applicant submitted that the applicant is in custody from 18th December, 2017. It is submitted that the prosecution, so far has examined one witness and the examination of second witness is in progress. The examination of first witness went on for long time. The accused had not delayed the trial. The learned Magistrate at the most can impose the sentence of three years. Whereas, the applicant is in custody for the period of almost one year and seven months. It is further submitted that there is no evidence against the applicant. He has not received any amount from the witnesses. Except showing the presence of the applicant with the co-accused, there is no cogent evidence against the applicant. There are no criminal antecedents against the applicant. The trial would not be over soon and hence the applicant may be directed to be released on bail.

3 Learned APP submits that the trial has already commenced. One witness has been examined by the prosecution and the second witness is in the witness box. The accused are charged with several offences including offences punishable under Section 468 and 471 of IPC. The prosecution intends to examine about 22 witnesses. The applicant has played a role in commission of crime. The earlier application was withdrawn, since the Court was not inclined to grant bail.

4 Perused the documents. On perusal of the charge - sheet, it appears that the applicant had participated in the crime. There are statements of witnesses disclosing participation of applicant. Considering the material on record and submissions advanced by both the sides, I do not find it proper to release the applicant on bail. The bail application before Sessions Court were rejected vide orders dated 16th January, 2018 and 18th April, 2018. The application was withdrawn before this Court on 11th September, 2018. The applicant preferred application before trial Court under Section 437(6) of Cr.P.c. The said application was rejected on 29th November, 2018, by observing that witness was present in Court and due to non production of accused in Court inspite of production warrant evidence could not be conducted. It is further observed that advocate for accused showed no willingness to proceed with evidence in absence of accused. This fact is disputed by learned counsel for applicant. From Roznama of trial Court indicate that accused were not produced before trial Court on several dates of hearing. Charge was framed on 31st July, 2018. The trial has commenced. Apparently, examination of P.W.1 proceeded from 29th November, 2018. It is submitted by advocate for applicant that the evidence of P.W.1 was concluded in June 2019. On 1st November, 2018, accused no.2 (applicant)

preferred application for bail, which was rejected on 29th November, 2018. Considering the fact that the applicant is in custody since 18th December, 2017, and that the prosecution intends to examine several witnesses, directions can be given to the trial Court to conclude the trial expeditiously.

4 Hence, I pass the following order:

:: O R D E R ::

- (i) Bail Application is rejected;
- (ii) Trial Court is directed to conclude the trial within a period of six months;
- (iii) As far as possible, the trial Court shall proceed with the trial by giving priority to the case and proceed with the case on day to day basis.
- (iv) Applicant and the co-accused be produced before the Court regularly. The prosecution shall examine witnesses without unreasonable delay and the defence is expected to co-operate for speedy disposal of the trial;

(v) In the event, trial is not concluded within a period of six months from today, applicant is at liberty to prefer a fresh application before the trial Court;

(v) Bail application stands disposed of.

(PRAKASH D. NAIK, J.)