

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 645 OF 2017
IN
CRIMINAL APPEAL NO. 172 OF 2013

Shekhar Vilas Malekar.	...	Applicant.
V/s.		
The State of Maharashtra.	...	Respondent.

Ms.Nagma Tandon for the applicant.
Ms.P.P.Shinde, APP for the respondent- State.
Mr.Paras Yadav for the intervener.

CORAM : A.S.OKA AND A.S.GADKARI, JJ.

DATE : 28th February 2019.

P.C. :

Heard the learned counsel appearing for the applicant, the learned APP for the respondent- State and the learned counsel appearing for the intervener. On earlier occasion, when the application was heard, it was pointed out that accused No.2 has been ordered to be enlarged on bail by the order dated 31st January 2019 in Criminal Application No.1049/2018 in Criminal Appeal No.1360/2012. The present application is by the accused No.6. The learned APP pointed out distinguishing features of the case against the present applicant. He pointed out that there are three other offences registered against the present applicant. A chart is tendered containing the details which is taken on record and marked as "R1" for identification. The learned

counsel appearing for the applicant has placed on record copies of the judgments showing that in all three cases, the applicant has been acquitted.

2. The other distinguishing feature pointed out by the learned APP is that when the applicant was released on parole, he did not return to jail within the stipulated time and there was a delay of about 6 to 8 months in reporting back to the jail.

3. On plain reading of the order dated 31st January 2019 granting bail to the accused No.2 and the case of the present applicant, we are satisfied that by a reason of parity, the applicant is entitled to be enlarged on bail on the same conditions on which the co-accused was released. In three other offences registered against the applicant, he has been acquitted. The fact that there was delay in reporting back to jail after the applicant was released on parole is no ground to deny relief of bail to the applicant by the reason of parity. Moreover, the applicant has undergone sentence for more than 8 years.

4. Accordingly, we dispose of this application by passing the following order:

ORDER

- (i) The substantive sentence imposed upon the applicant-Shekhar Vilas Malekar by the impugned Judgment and order dated 9th November 2012 passed by the learned Additional

Sessions Judge in Sessions Case No.703/2010 shall stand suspended till the final disposal of the appeal and the applicant shall be enlarged on bail in the sum of Rs.25,000/ (Rupees twenty five thousand only) with one or two local solvent sureties in the like amount;

- (ii) The bail is granted subject to the condition that the applicant will furnish detailed address of his place of residence where he proposes to reside after he is enlarged on bail and contact telephone/Cell number to the concerned Jail Superintendent;
- (iii) The bail is granted subject to condition of the applicant reporting to the concerned Trial Court at 11.00 a.m on first Monday of every January and July of every calendar year till the disposal of appeal;
- (iv) If the applicant fails to report to the Trial Court as aforesaid, the concerned Court shall immediately submit a report to that effect to the Registrar (Judicial-I) of this Court who shall immediately place the report before the concerned Court;
- (v) Application is disposed of on above terms.

(A.S.GADKARI, J.)

(A.S.OKA, J.)