

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

CRIMINAL BAIL APPLICATION NO. 1439 OF 2018

Govind Raj Rao

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Sanjeev P. Kadam a/w. Mr.Prashant Raul and Mr. Ravi Kotian i/b.
Little and Company for the Applicant.

Mr.Vinod Chate, APP for the Respondent -State.

Mr. Sanjog Parab for the First Informant.

Mr.Deodikar, API (EOW, Unit-V, Mumbai) present.

CORAM : S.S.SHINDE J.

DATE : 23 JULY 2019

P.C.:

1. Heard learned Counsel appearing for respective parties.
2. One Indira Prashant Karkera, who according to the applicant is a main accused in C.R. No. 71 of 2016 (New C.R. No. 14 of 2016) registered with Saki Naka Police Station (now transferred to EOW, Unit-V, Mumbai) for an offence punishable under Sections 420, 463, 465, 467, 468, 471, 419, 120B of the Indian Penal Code, has been

released on bail by this Court (Coram: Nitin W. Sambre, J.) on 07.02.2019. This Court while allowing an application for bail filed by the said accused has considered the rival contentions on merits, and ultimately reached to a conclusion to allow the said application and released the said accused on a regular bail.

3. It is contended by learned Counsel appearing for the applicant that in other two crimes, the applicant has already been released on bail. He invites attention of this Court to the orders passed by this Court (Coram: A.S.Gadkari, J.) on 13.06.2018 in Bail Application No. 2636 of 2016 and also in Bail Application No. 2635 of 2016 decided on 13.06.2018. He submits that co-accused Indira Karkera, who is according to the prosecution is the main accused, has been released on bail by this Court after appreciating the rival contentions on merits. He further submits that the present applicant is 79 years old and he is in jail for more than three years and, therefore, he deserves to be released on bail. He further submits that the prosecution is not sure when the trial is likely to be concluded. All the offences are triable by the learned Magistrate and, therefore, he prays for release of the applicant on the regular bail on merits as well as on

the ground of parity. He has tendered across the bar copy of the compilation of orders and citations, which is taken on record.

4. The learned APP appearing for the State and learned Counsel appearing for the first informant invite attention of this Court to the chargesheet and the statements of various witnesses and five employees, who were working in the company where the applicant was a managing director.

5. The learned Counsel appearing for the first informant relying upon the statements of the aforesaid five witnesses, submits that the involvement of the applicant is writ large and, therefore, in the interest of thousand of the shareholders, the applicant deserves no leniency. In support of his submissions, he relies on the judgment of the Supreme Court in the case of ***The State of Bihar and Ors. Vs. Amit Kumar***¹ and in particular paragraph 9 of the said judgment. He further submits that it is necessary to give reasons while granting bail. He further submits that while considering the prayer for bail, the seriousness of the offence is necessary to be looked into.

¹ MANU/SC/0515/2017

6. It appears that the present applicant filed an application for bail bearing No. 2636 of 2016 (Govind Raj Rao Vs. State of Maharashtra & Ors.) under Section 439 of the Code of Criminal Procedure in C.R. No. 49 of 2016 for an offence punishable under Sections 409, 420, 465, 467, 468, 469, 471, 472, 477 (A), 120 (B) read with 34 of the Indian Penal Code. After considering the age of the applicant, this Court (Coram: A.S.Gadkari, J.) released him on bail in aforesaid C.R. No. 49 of 2016 on 13.06.2018.

7. It also appears that the present applicant filed another application for bail bearing No. 2635 of 2016 (Govind Raj Rao Vs. State of Maharashtra & Ors.) under Section 439 of the Code of Criminal Procedure in C.R. No. 24 of 2016 for an offence punishable under Sections 409, 420, 465, 467, 471, 472, 477 (A), 120 (B) read with 34 of the Indian Penal Code. This Court (Coram: A.S.Gadkari, J.) released the applicant on bail in aforesaid C.R. No. 24 of 2016 on 13.06.2018. In the said order, the learned Judge has observed that the chargesheet is already submitted and the applicant has already undergone pre-trial incarceration of about two years and three months. The age of the applicant was also taken into account.

8. Bail Application No. 2628 of 2018 was filed by Indira Karkera. By an order dated 07.02.2019, this Court (Coram: Nitin W. Sambre) released her on bail in C.R. No. 71 of 2016 for an offence punishable under Sections 420, 463, 465, 467, 468, 471, 419, 120B of the Indian Penal Code. In the said crime, the present applicant also prays for bail on the ground of parity as well as on the ground of age, and fact that he is in jail for more than three years.

9. It appears from the perusal of the order passed by this Court (Coram: Nitin W. Sambre, J.) on 07.02.2019 that, the learned Judge after appreciating the rival contentions on merits reached to the ultimate conclusion's in paragraph Nos. 7 and 8, which reads thus :

"7. Having bestowed my thought to the submissions made, what can be noticed from the record is, after the arrest, the applicant is in the custody for a period of more than three years. The fact that the investigation in the matter is completed and chargesheet is filed, needs to be taken note of. The charge, in the matter, was framed on July 12, 2016 and thereafter the matter is adjourned time to time at the best of prosecution on one count or the other. There is voluminous chargesheet placed on record and considering progress of the trial in the past before the learned Magistrate, it cannot be expected that the trial is likely to be concluded in the recent future.

8. Having regard to the aforesaid facts, viz. that the applicant has almost completed three years' incarceration, she is a woman and most of the other accused persons are already released on bail by this Court or by the Apex Court, it would be appropriate in my opinion to allow the application".

10. There is no denial by the prosecution to the assertion of learned Counsel appearing for the applicant that the said accused viz. Indira Karkera is the main accused as per the prosecution case. In that view of the matter, cumulative effect of the spirit of the orders passed by this Court in Bail Application Nos. 2635 of 2016 and 2636 of 2018 releasing the applicant on bail, and also releasing the accused Indira Karkera from C.R. No. 71 of 2016, the applicant also deserves to be released on bail from C.R. No. 71 of 2016. Hence, the following order:

(a) The applicant be released on bail in C.R. No. 71 of 2016 dated 04.02.2016 (New C.R. No. 14 of 2016) registered with Saki Naka Police Station (now transferred to EOW, Unit-V, Mumbai) on furnishing P.R. Bond of Rs. 1,00,000/- (Rupees One Lakh only) with one or two solvent local sureties in the like amount;

(b) After his release from jail, the applicant shall attend the office of the EOW Unit-V, Mumbai on every

first Monday of the month between 11.00 a.m. and 1.00 p.m. till the conclusion of trial;

(c) The applicant shall attend all the dates before the trial Court unless precluded for medial reasons;

(d) The applicant shall not tamper with the evidence and/ or pressurize the prosecution witnesses.

11. Bail Application is allowed in the aforesaid terms.

(S.S.SHINDE, J.)