

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1748 OF 2018

Kiran Kamlakar Barshinge ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

....

Mr.Pankaj D.Kavale, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 24st JANUARY 2019.

P.C. :

1 This is the second application for grant of bail after rejection of first application bearing No.2420 of 20126 vide order dated 06/12/2017 by this Court. Bail is claimed in Crime No.50 of 2015 registered with Sewree Police Station for the offences punishable under Sections 461, 427, 285, 411, 395 read with Section 34 of the Indian Penal Code (hereinafter referred to as the 'IPC' for the sake of brevity), under Section 15(2) of the Petroleum and Mineral Pipeline Act, 1962, under Section 3 of the Prevention of Damages to Public Property Act, 1984 as well as under Section 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crimes Act, 1999.

2 The learned Counsel for the applicant drew my attention to the Order dated 28/12/2017 passed below Exhibit 22 thereby granting bail to co-accused Ilyas Abdul Jabber Choudhari and argued that this accused person has actually received the diesel stolen by the accused persons. He is granted bail by the learned trial Court. The learned Counsel further drew my attention to the Order dated 28/11/2018 passed in Criminal Bail Application No.1175 of 2017 by co-ordinate Bench of this Court (Coram : Prakash D. Naik, J) and argued that co-accused Tayyab Mansoor Shaikh, who has installed the electric motor for stealing the diesel, is granted bail. With this, the learned Counsel argued that as the co-accused are released on bail, the applicant is also entitled to be released on bail.

3 The learned Additional Public Prosecutor opposed the application by contending that co-accused Tayyab Mansoor Shaikh is granted bail on the premises that he was working as a plumber and had installed the electric motor as per the duty assigned to him. The learned Additional Public Prosecutor further argued that another accused Ilyas Abdul Jabber Choudhari, who is released on bail by the learned trial Court was accused of receiving the stolen property, whereas according to the learned Additional Public Prosecutor, the present applicant was in-charge of laying down the pipeline illegally for stealing diesel from the supply main of the Petroleum Company and while doing so, he convinced the

witnesses examined by the prosecution not to oppose the work of laying down underground pipeline, which was meant for stealing the diesel in huge quantity from the supply main of the Petroleum Company.

4 I have considered the submissions so advanced. So far as the co-accused, who are released on bail subsequently, are concerned, their roles are totally different than the role attributed to the present applicant. With a reasoned Order, his bail application was rejected by this Court. There are no changes in circumstances so far as the present applicant is concerned.

5 In this view of the matter, the instant application is rejected.

6 However, the trial Court is directed to expedite the trial and to finish it of as early as possible and in any case within a period of two years from the date of receipt of this of this Court.

(A.M.BADAR J.)