

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (BA) NO.1110 OF 2018

(Saurabh s/o Vilasrao Ambatkar Vs. State of Maharashtra thr. Officer in charge,
Crime Branch, Nagpur)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri N.B. Rathod, Advocate for Applicant.
Shri V.P. Gangane, APP for Respondent/State.

CORAM: M.G. GIRATKAR, J.

DATE: 25th FEBRUARY, 2019.

Heard Advocate Shri Rathod for the applicant.

Bail application was moved by the present applicant vide Criminal Application (BA) No.325/2018. Following order was passed by this Court on 11.07.2018.

[i] Shri N.B. Rathod, learned Counsel seeks leave to withdraw the application unconditionally.

[ii] Learned counsel has submitted that this Court has given direction to the trial Court to frame charge and conclude the trial within nine months from today i.e. from 11.07.2018. Learned counsel has submitted that trial is not completed. Applicant is behind bar since last four years.

On the last date report was called from the trial Court. Learned trial Court has submitted that report dated 08.02.2019. It is submitted by the trial Court that two witnesses are examined. List of witnesses are submitted by the APP some bailable warrant and summons to more than

five witnesses issued. The matter is now fixed for evidence on 13.02.2019.

Learned APP has submitted that one more witness is examined by the trial Court. As per the report of trial Court there are 12 accused facing the trial they are represented by nine Advocates including senior counsel. Sincere efforts are taken to conclude the trial.

Learned counsel has submitted that accused cannot be kept in jail for uncertain period. In support of his submission pointed out the judgment of Apex Court in the case of *Angela Harish Sontakke v. State of Maharashtra*. Hon'ble Apex Court has held that, "the appellant had been in custody for over five years. The trial was yet to commence. The appellant was a lady. She had also been acquitted for similar charges and therefore, bail was granted." In the present case, the applicant is not a lady. Secondly, the trial is already commenced three witnesses are already examined by the trial Court, therefore, cited judgment is not applicable to the present case. Learned counsel has pointed out judgment of Apex Court in the case of *Paramjit Singh v. State (NCT of Delhi)* reported in (1999) 9 SCC 252. Hon'ble Apex Court has observed that directions were given to the prosecution to conclude the trial within reasonable time. When the matter was fixed before the Apex Court, the Delhi Administration/Prosecution failed to file any affidavit stating the progress of the case two adjournments were given but neither affidavit filed nor the counsel for

prosecution appeared before the Apex Court. Therefore, bail was granted. Fact in the cited judgment is very much different therefore, not applicable in the present matter.

Learned Counsel has pointed out judgment in the case of *Babanrao Tukaram Ranjane v. State of Maharashtra* reported in (2006) 9 SCC 422 and submitted that in view of this judgment applicant is entitled for bail. Hon'ble Apex Court has observed that only consideration for Court is whether the appellant made out a case for bail. It appears that the bail was granted on merit. Hence, this is not applicable to the present case.

Learned counsel has pointed out the judgment in the case of *Umarmia alias Mamumia v. State of Gujarat* in paragraph 12 Hon'ble Apex Court has held that "the appellant is involved in serious offence and was in jail for more than 12 years in the custody and trial may not be completed in near future and therefore, bail was granted. In the present case, applicant is in custody since last four years and moreover the trial is commenced before the trial Court. Already three witnesses are examined. Hence, cited judgments are not applicable to the present case. Therefore, application is rejected.

JUDGE