

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 BAIL APPLICATION NO.632 OF 2021

KRISHNA MANOHAR JOSHI
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. G.k. Naik Thigle
APP for Respondent: Mr. K.S. Patil
.....

CORAM : V. K. JADHAV, J.
DATED : 26th NOVEMBER, 2021

PER COURT:-

1. The applicant-accused in connection with Crime No. 300 of 2018 registered with Basmath police station, District Hingoli for the offences punishable under sections 420, 465, 467, 468, 471, 34 of I.P.C. and now in connection with R.C.C. No. 24 of 2019 (State vs. Yogesh Kale and others) pending before the J.M.F.C. Court No.1 Basmatnagar, seeks regular bail.

2. By order dated 8.2.2019 this Court (Coram: Mangesh S. Patil, J.) has disposed of bail application No. 99 of 2019 as withdrawn. In the said order dated 8.2.2019, this Court has observed as follows:-

"1. After hearing the arguments when this Court expressed its disinclination to grant the bail on merits, the learned Advocate for the applicant, on instructions, seeks leave to withdraw the application.

2. *Leave granted.*

3. *The application is disposed of as withdrawn."*

3. The applicant accused thereafter filed bail application No. 549 of 2019 for bail and this Court has rejected the said application by order dated 15.7.2019. The said application was rejected mainly on the ground that the applicant accused has suppressed material fact that earlier bail application bearing No. 99 of 2019 for regular bail was disposed of as withdrawn by order dated 8.2.2019 by the Court (Coram: Mangesh S. Patil, J.).

4. The applicant accused has thereafter filed bail application No. 847 of 2020. By order dated 30.9.2020 this court has dismissed the said application as withdrawn. However, the trial Court was directed to dispose of the case expeditiously, on priority basis by day to day hearing, if possible within a reasonable time after the normal court functioning begins.

5. Learned counsel for the applicant accused submits that so far as the order dated 8.2.2019 passed in bail application No. 99 of 2019 is concerned, even though charge sheet was filed the same was not brought to the notice of the court. Learned counsel has pointed out that the charge sheet has been submitted on 11.1.2019 whereas the application for bail was filed before the trial court prior to filing of the

charge sheet and the bail application No. 99 of 2019 was filed on 22.01.2019. Learned counsel submits that this court had no occasion to go through the charge sheet. Learned counsel submits that in subsequent two bail applications, merits were not considered for the reason that on earlier occasion in bail application No. 99 of 2019 this Court has considered the merits and when expressed its disinclination to grant bail, the bail application was withdrawn. Learned counsel submits that even though in the order dated 30.9.2020 passed in bail application No. 847 of 2020, certain directions were issued to the trial court to dispose of the case expeditiously, on priority basis by day to day hearing, if possible within a reasonable time after the normal court functioning begins, however, as per the status report submitted by the trial court, the prosecution has examined only one witness, whose evidence is also incomplete. Learned counsel submits that even on merits, the applicant-accused is entitled for bail. The applicant accused is in jail for more than three years and in view of the same the applicant may be released on bail.

6. While passing the order dated 8.2.2019 in bail application No. 99 of 2019 even assuming that the charge sheet was not brought to the notice of the court, however, this Court had an occasion to go through the police papers and after hearing the arguments when the Court has expressed disinclination to grant bail on merits, the counsel representing the applicant, on instructions, withdrew the

application. Though the learned counsel for the applicant accused tried before this court to make his submissions on merits, however, there is no reason to consider the merits of the application again because the court is now changed.

7. I have carefully gone through the status report submitted by the learned Judge of the trial court. By order dated 30.9.2020 this Court has directed the trial court to dispose of the case on priority basis by day to day hearing, if possible. However, the trial court has pointed out various instances and right from 2019 onwards till 16.3.2021 as to how, continuously the co-accused persons in connection with the crime have filed bail applications and the time was consumed extensively to decide those applications. Learned Judge of the trial court has communicated that the matter is pending for cross examination of P.W.2. Learned Judge of the trial court has assured this Court that he will try to dispose of the matter as early as possible by giving top priority.

8. In view of the above, the trial court is directed to decide the case as expeditiously as possible, preferably within a period of six months from the date of this order, on priority basis by day to day hearing. It is also directed that the trial court to submit weekly report to the learned Sessions Judge of the Sessions. The learned Sessions Judge is also directed to supervise the progress of the case. It is expected from the learned Sessions Judge that the

progress report will be submitted to the Registrar (Judicial) of this Court fortnightly.

9. In view of above, I am not inclined to consider this application on merits again. Hence, the following order.

O R D E R

- I. Bail application is hereby rejected.
- II. In case the progress is not satisfactory for the reasons not attributable to the applicant or any other accused, liberty to the applicant to renew his request for bail.

(V. K. JADHAV, J.)

rlj/