

nsc.

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

CRIMINAL BAIL APPLICATION NO.415 OF 2021

Atendra @Ashish Virendra Yadav

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Viral K. Rathod, for the Applicant.

Mr. S. V. Gavand, A.P.P for the Respondent – State.

CORAM : REVATI MOHITE DERE, J.

DATE : 1st MARCH, 2021

P.C. :

1 Heard learned counsel for the parties.

2 This is the second bail application preferred by the applicant seeking his enlargement on bail in connection with C.R. No. I-138 of 2016 registered with the Kasarvadavli Police Station, Thane, for the alleged offences punishable under Sections 302, 397, 450 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicant submits that prior to Covid/lock-down, 5 witnesses were examined, however thereafter, there has

been no progress in the said case. He submits that the applicant was a young boy, aged 19 years when the alleged incident of assault was committed and that the applicant is in custody since 2016.

4. Learned APP opposed the application. He submits that the trial could not be expeditiously concluded because of the lock-down. He submits on instructions, that till date the prosecution has examined 5 witnesses and the prosecution intends to examine 20 more witnesses. Learned APP has no objection if the trial of the applicant is expedited and is made time bound.

5. Perused the papers. The first bail application of the applicant was rejected on merits by this Court (Coram:Revati Mohite Dere, J.) vide order dated 14th September 2017, passed in Criminal Bail Application No.754 of 2017. The said order is on page 422 of the application. The prosecution case rests on circumstantial evidence. According to the prosecution, the applicant along with co-accused – Prashant murdered two persons i.e. Sitaram and his caretaker on 31st May, 2016. In the order dated 14th September 2017, the material/circumstances as against the applicant is recorded. The material on record *prima facie* shows the complicity of the applicant. The postmortem report shows that both the deceased were

brutally assaulted. As far as merits are concerned, no case is made out for grant of bail.

6. Accordingly, the Application for bail is rejected and disposed of as such.

7. It appears from the Roznama on record that post 2017 there has been absolutely no progress in the said case. It appears that till date only 5 witnesses have been examined and that there has been no progress in the trial, obviously, because of the lock-down. It appears that the witnesses could not be examined. However, with the new Standard Operating Procedure (SOP), there is no impediment for the learned trial Judge to proceed with the trial of the applicant. The applicant is in custody since 2016. The trial of the applicant has already commenced, inasmuch as, till date the prosecution has examined 5 witnesses and the prosecution intends to examine 20 more witnesses.

8. Considering the aforesaid, the learned Judge to conclude the case as expeditiously as possible and in any event within 9 months from the date of receipt of this order.

9. Learned APP assures that the police as well as the jail authorities will produce the applicant as well as the co-accused on the dates given by the trial Court either physically or through video conferencing, as may be directed by the trial Court.

10. The advocate for the applicant to place the aforesaid order before the learned Judge conducting the trial, so as to enable him to conduct the case expeditiously.

11. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.