

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

BAIL APPLICATION NO.1015 OF 2021

Waryam Singh

.. Applicant

Versus

State of Maharashtra and Anr.

.. Respondents

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Mr.Niranjan Mundargi a/w. Ms.Foram Vora and Mr.Subir Sarkar,
Advocate for the Applicant.

Mrs.P.P. Shinde, APP for the Respondent – State.

PI Kishor Parab, Pradeep Warang, EOW Banking Unit, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : MARCH 12, 2021.

P.C. :

This is an application for bail in connection with C.R.No.86 of 2019, investigated by EOW Mumbai under Sections 406, 409, 420, 465, 467. 468, 471, 477, 201 and 120(b) of Indian Penal Code (“IPC”, for short). The applicant was arrested on 5th October, 2019. The applicant is senior citizen aged about 70 years.

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Aher

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Learned counsel for the applicant, on instructions,
seeks permission to withdraw this application with liberty to

prefer fresh application for bail before the Sessions Court. It is submitted that the applicant preferred an application before the Sessions Court viz. Bail Application No.459 of 2020, which has been rejected vide order dated 2nd May, 2020.

3 Learned counsel for the applicant contends that the application for bail was preferred before the Sessions Court on 12th February, 2020. It was listed for hearing for the first time on 13th February, 2020. Application was adjourned for filing reply to 21st February, 2020. The application was then listed on 21st February, 2020, which was adjourned to 6th March, 2020 and 13th March, 2020. Reply was filed by respondent on 13th March, 2020. The matter was thereafter listed for arguments on 2nd April, 2020. Lock-down was declared on 24th March, 2020, and, matter could not be listed for arguments. Roznama dated 2nd April, 2020, mentions that the application was adjourned to 24th April, 2020, for Arguments. It is contended that application was not argued by learned advocate for applicant at any point of time.

4 From Roznama dated 24th April, 2020, it appears that the application was posted on 15th May, 2020, for arguments. Another Roznama dated 24th April, 2020 mentions that

application was kept for order on 2nd May, 2020. The applicant's advocate⁴ was not present on 24th April, 2020, for arguing the application. There were other applications for bail arising out of the same case. The order dated 2nd May, 2020, passed in the present application as well as the orders passed in the connected matter indicate that one of the accused had approached the High Court and vide order dated 23rd April, 2020, the High Court had directed the Sessions Court dispose of Bail Application No.79 of 2020. This Court further heard Bail Application No.43, 80 of 2020, 179 of 2020, 459 of 2020, Anticipatory Bail Application No.2000 of 2019, ABA No.285 of 2019. However, from the Roznama, it appears that the application of the applicant was not heard and it was due for hearing. Probably, in view of the orders passed by the High Court, directing the Sessions Court to dispose of the application, orders were passed disposing application. The application preferred by applicant was rejected. Thus, it appears that the applicant's advocate was not present and arguments were not advanced on behalf of applicant. In this circumstances, liberty to prefer fresh application before the Sessions Court can be granted to applicant. It appears that there were several matters before the Court, and, there were directions dispose off the matters which were heard. The directions to entertain fresh

application for bail by applicant shall not be construed as adverse remark or aspersion against the Court which had passed the order.

5 Hence, I pass the following order:

:: O R D E R ::

- (i) Applicant is permitted to withdraw this application for bail with liberty to prefer fresh application for bail before Sessions Court;
- (ii) The Sessions Court shall decide the application in accordance with law, without being influenced by previous order;
- (iii) Bail Application No.1015 of 2021, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)