

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

**BAIL APPLICATION NO. 3008 OF 2019
WITH
INTERIM APPLICATION NO. 890 OF 2021
WITH
INTERIM APPLICATION NO. 1395 F 2020**

Ajit Atmaram Apraj ... Applicant

Versus

The State of Maharashtra & Anr. ... Respondents

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Mr. Vikas Tiwari a/w Mr. Fakhruddin Khan i/by Ms. Pradnya U. Raibole, Advocate for the Applicant in B.A. & I. A.

Mr. Vaibhav Bagade, Special P. P. a/w Mr. R. M. Pethe, APP for the Respondent No.1 – State.

Mr. Sudeep Pasbola with Mr. Prayag Joshi i/by Mr. Bipin Joshi, Advocate for Respondent No.2/Intervenor.

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CORAM : PRAKASH D. NAIK, J.

DATE : 12th AUGUST, 2021.

PER COURT:

1. The applicant has preferred this application for bail under Section 439 of Cr.P.C. in C.R. No.45 of 2015 registered with Tilak Nagar Police Station, Mumbai. The offences were registered under Sections 341, 328, 344, 364-A, 386, 387, 392 & 120-B of Indian Penal Code (for short “IPC”).

2. This is second application for bail. The previous

application was rejected by this Court vide order dated 26th November, 2018. However, the trial Court was directed to make an endeavour to proceed with the trial as expeditiously as possible.

3. The case of the prosecution in short is that the victim aged about 21 years was abducted by accused. Ransom calls were made. Victim was assaulted. Informant was threatened and huge amount was extorted by the accused.

4. Learned advocate for the applicant submitted that the applicant is in custody from 26th April, 2015. He is in jail for a period of about 6 years. There is no progress in the trial. The first witness was examined in the year 2017 and the evidence of the said witness is not yet over. The examination-in-chief of the witness has commenced from 6th November, 2017. The said witness is still under examination. In spite of direction to expedite the trial, there is no progress in trial. Learned counsel for the applicant also pointed out the order passed by the co-ordinate bench in application preferred by co-accused, expediting the trial vide order dated 30th September, 2019. Learned counsel for the applicant relied upon the rojnama of the proceedings before the trial Court in support of his submission that there is no progress in trial. It is submitted that there is no evidence for offence under Section 364-

A. The amount which is collected has no link with amount parted by the complainant. The Investigation officer has recorded statements of several witnesses. It is not clear as to when the trial would conclude. Reliance is placed on the decision of the Apex Court in the case of *Paras Ram Vishnoi V/s. The Director, Central Bureau of Investigation* dated 27th July, 2021 wherein bail was granted by the Apex Court on the ground that accused is in custody and although evidence of prosecution witnesses was over, still it would take time to conclude trial. The accused was in custody for eight years 6 months.

5. Learned Special P. P. Mr. Bagade submitted that the offence is of serious nature. The previous application was rejected by this Court on merits. Pending the evidence of PW-1 & PW-2 has been examined. The accused had preferred multiple applications for bail. The prosecution proposes to examine about 82 witnesses, out of which about 39 witnesses are panch witnesses. New special P. P. has been appointed. He has taken charge in the case and there would be no delay if defence cooperates with conducting the trial. The trial would be conducted diligently. There is ample evidence against the applicant. There are about 10 accused in this case.

6. Learned counsel for the complainant Mr. Sudeep

Pasbola submitted that the accused had preferred several applications before the trial Court. The complainant is always willing to cooperate with recording of evidence. He has not delayed in trial in any manner. The trial would be concluded expeditiously.

7. The previous application was rejected on merits vide order dated 26th November, 2018. The trial Court was directed to make an endeavour to proceed with the trial expeditiously. Apparently, the evidence of PW-1 had commenced in November – 2017 and it is not yet concluded. The report was called from the trial Court about status of the trial. In the report dated 20th October, 2020 it was stated that the accused Nos. 1 to 8 and 10 are in judicial custody and accused No.9 is on bail. All the accused are represented by various respective advocates. The matter is pending for recording the evidence since 3rd January, 2017. Several bail applications and miscellaneous applications were moved by either of the accused from time to time which was accordingly dealt with after hearing both the sides. Since 5th December, 2019 further examination-in-chief of PW-1 is going on, on the verge of conclusion. However, due to lockdown further examination-in-chief was withheld from 20th March, 2020 and since then the matter has been adjourned due to pandemic COVID-19 as per directions

received. During the period of lockdown also the accused were not produced before Judicial custody nor Special P. P. had appeared. The Police Officer appearing before the Court regularly. During lockdown bail applications were moved which were accordingly dealt with vide Exh.182 moved by accused No.5. The application moved by the applicant/accused was rejected on 11th August, 2020 and the application of accused No.7 was rejected on 1st October, 2020.

8. It is true that the accused are in custody for substantial period of time. The trial had proceeded at snail speed. However, from the rojnama and the report submitted by the trial Court it appears that there are several factors which had caused delay in trial. The trial Court in its report has stated that the accused had preferred several applications. The facts still remains that the applicant is in custody since last six years. It was also brought to my notice that special P. P. appointed to conduct the prosecution had resigned. However, new special P. P. has been appointed. He has appeared before this Court. He has taken the charge of the proceedings. The learned Special P. P. has indicated that the trial would proceed diligently. Half of the witnesses to be examined by the prosecution are panch witnesses which would not take much

time in recording their evidence. The next date before the trial Court is 18th August, 2021. The counsel for the applicant had submitted that Special P. P. had not appeared on several occasions. Mr. Bagade submitted that he has been appointed as Special P. P. to conduct the trial. There would be no delay by the prosecution and trial would be concluded as expeditiously as possible.

9. Considering all the aforesaid circumstances, it would be appropriate to direct the trial Court to conclude the trial within a period of six months from the date of the receipt of this order. It is expected that both the sides would cooperate the trial Court in concluding the trial. The evidence of PW-1 be concluded immediately. The prosecution shall take steps to make available all the witnesses for examination on the date of hearing before the trial Court. The defence shall cooperate with the trial Court in concluding the trial. The trial Court shall give priority to this case, considering the fact that on several occasions the trial has been expedited and the accused are in custody for a period of about six years. In the light of the aforesaid directions, bail cannot be granted.

10. Hence, I pass the following order :

ORDER

- (i) Criminal Bail Application No. 3008 of 2019 is rejected and disposed of accordingly;
- (ii) The trial Court is directed to conclude the trial within a period of six months. The prosecution as well as accused shall not delay the trial and both the sides shall cooperate with the trial Court in concluding the trial.
- (iii) The trial Court shall give priority to this case and proceed with the trial diligently, considering the fact that the accused are in custody for a period of about six years.
- (iv) In the event, the trial is not concluded within six months, the applicant is at liberty to prefer fresh application for bail.
- (v) Both Interim Applications are disposed of accordingly.

(PRAKASH D. NAIK, J.)