

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.204 OF 2021**

Mandar Babu Shetty .. Applicant
Versus
The State of Maharashtra .. Respondent

**WITH
INTERIM APPLICATION NO. 809 OF 2021
IN
BAIL APPLICATION NO.204 OF 2021**

Matthew Dennis Oliveria .. Applicant
Versus
The State of Maharashtra and anr. .. Respondents

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Mr. Rajendra Rathod i/b Ali Bubere a/w Abdullah M for the Applicant.

Ms. Anamika Malhotra, A.P.P. for the State/Respondent.

Mr. Ujjwal Gandhi for the Intervenor.

**CORAM: BHARATI DANGRE, J.
DATED : 5th SEPTEMBER, 2022**

P.C:-

1. The counsel for the applicant is perfectly justified in submitting, that the maximum sentence for the offences with which he is charged even on conviction would be 7 years. The learned counsel has invited my attention to the recent observations of the Hon'ble Apex Court in case of *Satender Kumar Antil vs Central Bureau Of Investigation AIR 2022 SC 3386*, where the Apex Court has issued specific directions for the

courts to invoke provisions of section 436 A and release the accused on bail, if the trial is not concluded, for one-half of the period as the accused/applicant is detained. Though the learned APP and the counsel for the applicant has briefly referred to the reasoning of the learned Judge of the Sessions Court on 27/10/2020, when the application was rejected and directions were issued to expedite the trial, I do not consider this order to be a compliance of section 436 A of cr.p.c.

2. Without being prejudice by the observations made by the court in the said order, the applicant seek liberty to file an application by specifically invoking section 436A and seeking his release on bail on the sole ground that he has undergone more than one-half of the sentence which could be imposed upon him, even on being convicted for the charges featuring in the charge-sheet.

If such an application is made, the learned Judge shall decide the same particularly in the light of the statutory mandate in form of section 436 A, uninfluenced by the earlier observations made on merits. Such an application shall be decided within a period of 4 weeks from the date of its filing. Place it before the Magistrate.

Bail application is disposed off. In view of the disposal of the bail application, interim application do not survive and stands disposed off accordingly.

(SMT. BHARATI DANGRE, J.)