

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

**CRIMINAL BAIL APPLICATION NO.1281 OF 2021
(THROUGH JAIL)**

Amita Appaiah Chenanda ...Applicant
Versus
The State of Maharashtra ...Respondent

Ms. Tamanna Irfan Shaikh, for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent - State.

PSI – P. M. Rasam, Malad Police Station, Mumbai, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 20th JULY 2022

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant seeking her enlargement on bail in connection with C.R.No.323 of 2017 registered with the Malad Police Station, Mumbai, for the alleged offence punishable under Section 302 of the Indian Penal Code. The applicant's first bail application was rejected on merits by this Court (Coram : Revati Mohite Dere, J.) vide order

dated 9th October 2019.

3. Learned Counsel for the applicant seeks bail on the ground of delay in the commencement of the trial as well as having regard to the medical condition of the applicant i.e. she is suffering from seizure disorder and psychotic disorder. Learned Counsel for the applicant has also tendered an affidavit-cum-undertaking of the applicant's brother – Gitesh Sitaram Rane, stating therein that if the applicant is released on bail, he will take full responsibility of the applicant and will provide necessary medical treatment to her. The applicant's brother has further stated that he will ensure that the applicant attends the trial Court on every date and that she will abide by the conditions imposed by this Court. The said affidavit-cum-undertaking is taken on record.

4. On the last date, the learned APP had tendered a report of the Mumbai District Women Prison, Byculla, Mumbai, where the applicant is lodged alongwith the Prisoner's Medical Report dated 13th

July 2022.

5. Perused the papers. No doubt the applicant's first bail application was rejected on merits vide order dated 9th October 2019, however, till date, the trial of the applicant has not commenced and not a single witness has been examined. The Prisoner's Medical Report dated 13th July 2022 tendered by the learned APP pursuant to the order dated 1st July 2022 passed by this Court shows that the applicant was examined on 13th July 2022. There were complaints of vomiting 2 to 3 times, burning chest (hyper-acidity) and body ache. In the column of 'Past Illness', it is stated that she is suffering from seizure disorder and is a case of psychotic disorder – DSM – major depressive disorder with anxious distress and is on regular medications from J.J. Hospital. She is also on medication for hypertension since 2010. It appears that she is under neurology and psychiatry treatment. In the column of 'Clinic Diagnosis', it is stated that the applicant is suffering from seizure disorder with major depressive disorder with anxious distress. The applicant has been prescribed with medications and all

the medications are stated to be given under strict observation. It appears that the trial is likely to take some time. The applicant is in custody since 2017, for almost 5 years with no prospect of the trial concluding in the immediate near future. As noted above, the applicant's brother has undertaken to take full responsibility of the applicant, if enlarged on bail and to provide her with necessary medical treatment. He has also undertaken to ensure that the applicant attends the trial Court on every date and that the applicant abides by the conditions imposed by this Court.

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail, on the following terms and conditions:-

ORDER

(i) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;

(ii) The applicant shall inform her latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iii) The applicant shall not leave the jurisdiction of Mumbai and Thane City, till the conclusion of the trial;

(iv) The applicant shall not contact the complainant, witnesses or any person concerned with the case;

(v) The applicant shall cooperate with the conduct of the trial and remain present on every date, unless exempted;

(vi) An undertaking to the aforesaid clauses (ii) to (v), shall be filed by the applicant, in the trial Court, within two weeks of her release.;

(vii) If there are 2 consecutive defaults in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of applicant's bail.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

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

REVATI MOHITE DERE, J.