

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 917 OF 2022

Somnath Baburao Chikne	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Vishal Deshmukh i/b Mr. Anil Wagh for the Applicant.

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

CORAM : REVATI MOHITE DERE, J.
DATE : 21st JULY, 2022

P.C. :

1. This is the fourth bail application preferred by the applicant seeking his enlargement on bail in connection with C.R.No. I-139 of 2014 registered with the Kamothe Police Station, for the offence punishable under Sections 120-B, 302, 341 r/w 34 of the Indian Penal Code, under Section 7(27) of the Arms Act and under Section 37(1), 135 of the Maharashtra Police Act.

2. Perused the papers. The applicant's first bail application was rejected on merits vide order dated 25th April, 2016. The applicant's second bail application was also rejected vide order dated 11th December, 2018. However, whilst rejecting the said application, having regard to the fact, that the applicant was in custody for about 4 ½ years, the trial of the applicant was expedited. Accordingly, a direction was also given to the learned Judge to conclude the case as expeditiously as possible, and in any event, by September, 2019. Since the trial did not conclude within the stipulated period, despite the direction of this Court, the applicant filed the third bail application. The said application was dismissed as withdrawn as the trial had commenced and the evidence of few witnesses were recorded. Vide the said order dated 15th January, 2021, the learned Judge was however, directed to conclude the case as expeditiously as possible, and in any event, within 12 months from the date of receipt of the order.

3. Today, learned APP informs that 20 witnesses are examined

and that about 5 to 8 more witnesses are left to be examined. Learned Counsel for the applicant submits that similarly placed co-accused have already been released on bail. He submits that the evidence in the case is not direct, and is based on circumstantial evidence. He submits that although, there is recovery of blood stained clothes at the instance of the applicant, the C.A. Report shows that the blood group of the deceased as inconclusive. It is not in dispute that the applicant is in custody since 2014, for more than 8 years.

4. Learned Counsel relied on the judgment of the Apex Court in the case of *Chintan Vidyasagar Upadhyay V/s. The State of Maharashtra*¹ in support of his submission, that the accused therein was enlarged on bail during the course of the trial, as the accused was in custody for six years and 12 more witnesses were yet to be examined.

5. The applicant has filed an affidavit-cum-undertaking, duly affirmed before the Superintendent of Talaja Central Jail dated 11th

¹ 2022 ALL MR (Cri) 1888 (S.C.)

July, 2022. In the said affidavit-cum-undertaking, the applicant has undertaken to remain present alongwith his Advocate on each and every date of trial. He has further stated that if he and his Advocate fail to appear before the trial Court, then his bail may be cancelled.

6. Considering that about 5 to 8 more witnesses are yet to be examined by the prosecution; that despite the applicant's trial having being expedited and made time bound, the same has not concluded till date; and having regard to what is stated hereinabove, 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 executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 10:00 a.m. to 11:00 a.m, till the conclusion of trial;

- (iii) The applicant shall inform his 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;
- (iv) The applicant to cooperate in the conduct of the trial and attend the trial Court on all dates, unless exempted;
- (v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- (vi) The applicant shall not seek any adjournment on any count in the trial Court;
- (vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of her release;

(viii) If there is any default in appearing before the Police Station or before the trial Court, the prosecution would be at liberty to file an application seeking cancellation of bail of the applicant.

7. The application is accordingly disposed of in the aforesaid terms.

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

REVATI MOHITE DERE, J.