

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

CRIMINAL BAIL APPLICATION NO. 1541 OF 2021

Mahesh Namdev Botre. ... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Mr. Harshad V. Nimbalkar a/w. Mr. Kiran Kale i/b. Mr. Pranav P. Pokale,
advocate for applicant.

Ms. M.M. Deshmukh, APP for State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : MARCH 9, 2022.

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PC.

1 Heard the learned Counsel for the applicant and the
learned APP for State.

2 This is successive bail application filed by the applicant
seeking enlargement on bail on the ground of parity. By an order dated
26/9/2016, this Court had rejected the application filed by the applicant
under section 439 of the Code of Criminal Procedure, 1973. The role
attributed to the present applicant is that he was a part of the conspiracy
that was hatched for eliminating Harshal (deceased) who was willing to

become an approver in Crime No. 614 of 2015. This Court had observed in paragraph-5 as follows :

“5 The learned APP submits that on 21/12/2015 i.e. 2 days prior to the arrest of the applicant, investigating officer had recorded the statement of one Abhijit Amrale, who had disclosed to the police that on 15/12/2015 when he had gone for strolling after dinner, he had heard present applicant, Abhid Shaikh, Dam Temkar and other 15 persons, who were hatching conspiracy to eliminate Harshal on the ground that Harshal was willing to become an approver in the Crime No. 614 of 2015. It appears that thereafter, the applicant was arrested on 23/12/2015.”

3 The learned Counsel for the applicant has placed on record an order passed by the Hon'ble Apex Court dated 11/12/2021 by which the principal accused Dhanesh @ Dam Murlidhar Temkar was enlarged on bail mainly on the ground that the applicant Dhanesh @ Dam Temkar was in custody for more than 5 and ½ years and that trial had not yet commenced on 30/9/2021. It is pertinent to note that in the present case, the applicant herein i.e. Mahesh Botre was not named in the First Information Report. The principal allegations were against Dhanesh @ Dam Murlidhar Temkar and Abhid Shaikh. Taking into consideration the fact that the co-accused who was named in the

FIR and was identified at the test identification parade, has been enlarged on bail. The present applicant also deserves to be enlarged on bail, as he is arrested on 23/12/2015. It is almost 6 and half years that he continues to be in custody. The Hon'ble Apex Court has also observed that there was no likelihood of completion of trial. The learned Counsel for the applicant submits that charge is framed. However, trial has not commenced.

4 In view of the above observations and by virtue of doctrine of parity, the applicant deserves to be enlarged on bail. Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The applicant Mahesh Namdev Botre be enlarged on bail in Crime No. 690 of 2015 registered at Chakan Police Station on furnishing PR. Bond in the sum of Rs. One Lakh and one or two solvent sureties in the like amount.
- (iii) The applicant shall attend each every date of hearing before the Sessions Court. On failure to attend any two consecutive

dates of hearing, the prosecution is at liberty to take steps for cancellation of bail.

(iv) The applicant shall furnish his residential address and his contact number to the concerned police station.

5 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)