

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

CRIMINAL BAIL APPLICATION NO. 2152 OF 2022

Yasmin Latif Sayyed

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Aniket Vagal for Applicant.

Smt. J. S. Lohokare, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 12th SEPTEMBER 2022

PC :

1. The Applicant had earlier approached this Court on two occasions. On the first occasion, she had filed Criminal Bail Application No.2579 of 2017. She is seeking bail in connection with C.R.No.130 of 2015 registered with Lonavala City police station U/s.302, 364, 342, 201 and 120-B of I.P.C. That bail application was rejected by this Court (Coram: A. M. Badar, J.) vide order dated 12/01/2018.

2. After that, the applicant again approached this Court for the same relief vide Criminal Bail Application No.219 of 2021. On that occasion, this Court vide order dated 09/06/2021 recorded

that the Court was not inclined to take a different view. Learned counsel for the applicant then prayed for unconditional withdrawal of that application with a request that the trial be expedited. That application was allowed to be withdrawn unconditionally, but it was observed that the applicant was a lady and she was in custody since 17/09/2015 and, therefore, the trial was expedited.

3. Now this is a third application for the same relief. However, this time the contention is that the trial has not progressed at all and the applicant deserves to be released on bail because the trial is not likely to be concluded in near future. Considering this submission, I had called for the report from the learned trial Judge.

4. Before going to that report, it has to be noted that the applicant is one of the accused in the offence where, as per the prosecution case, two persons namely Akshay Gaikwad and Rajesh Pimple were assaulted by many accused and their bodies were disposed of. There is a statement of one Deepak Reddy

showing the involvement of the applicant. Therefore, considering that statement, on the first occasion, her bail application was rejected.

5. On merits, it is not necessary to make any further observations. However, the report submitted by the learned trial Judge mentions that the trial is likely to take at least 2 to 3 years to conclude. This is an unreasonable period and, therefore, on that ground I am entertaining this application. The report submitted by learned Additional Sessions Judge, Vadgaon, District Pune dated 08/09/2022 mentions following aspects of the matter:

- i) Till today no witness is examined in this case.
- ii) On 06/09/2022 the case was on board for the evidence. The informant was present. He filed an application seeking adjournment on the ground that he had given application for appointment of Special Public Prosecutor to conduct this case. After that the case was adjourned.
- iii) There are 14 accused in this case. They are

represented by 7 different advocates.

iv) The Court of Additional Sessions Judge is newly established at Vadgaon since 06/02/2022 and all the cases pending in the court at Pune pertaining to that jurisdiction are transferred to that court including the present case.

v) In all there are 109 sessions and other cases of under trial prisoners pending before that court.

vi) Different APPs attend the court proceedings for different period. The approximate tenure of their period was about 15 continuous days.

vii) No permanent APP is attached to that court at present and perhaps on that ground the informant had sought adjournment.

viii) The charge-sheet names 66 witnesses in the present case.

ix) The accused are rarely produced from the

Yerwada jail.

x) The advocates representing the accused come from Pune.

xi) Learned Judge has thereafter observed that, in such facts, much more time would be required to conclude the trial. He has further mentioned that, even if all the concerned parties assist properly to conduct the trial, still at least minimum period of 2 to 3 years may require to conclude the trial.

6. The applicant is in custody since 17/09/2015. She is a lady. The trial is already delayed. The report of the learned trial Judge shows that, for next two to three years the trial is not likely to conclude, therefore, it would be very unfair and unjust to detain the applicant in custody as an under trial prisoner any further. She deserves to be released on bail only on that ground. It is clarified that, I am not making any observations on the merits of the matter as they are dealt with in the previous two orders.

7. Before parting with the order, the officials of Law and

Judiciary Department, as well as, Home department of the Government of Maharashtra must take a note of this disturbing situation which is causing prejudice not only to the accused but to the victims, as well. It is expected that some serious measures are taken by the Government of Maharashtra in this behalf for appointment of Public Prosecutors and for production of the accused in the trial Courts regularly. If this is done, at least there would be some relief to the learned trial Judges who have many cases of under trial prisoners before them.

8. Hence, the following order:

- i) In connection with C.R.No.130 of 2015 registered with Lonavala City police station which has resulted in Sessions Case No.145 of 2016 before the Additional Sessions Judge, Vadgaon, District Pune, the Applicant is directed to be released on bail on her executing PR. bond in the sum of Rs.30000/- with one or two sureties in the like amount.

- ii) The Applicant shall attend all the dates in the trial Court diligently unless prevented by a reasonable cause acceptable to the trial Court.
- iii) A copy of this order shall be sent to the Home Department, as well as, Law and Judiciary Department of the Government of Maharashtra.
- iv) The Application is disposed of.

(SARANG V. KOTWAL, J.)