

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2326 OF 2022

Yawar Abbas Kazam Hussain Sayyed] .. Applicant

vs.

State of Maharashtra] .. Respondent

Mr.Bhavik Manek a/w Javed Shaikh and Roohita Shaikh for the applicant.

Mr.S.V. Gavand, APP for the State.

PI Anand Raorane, Crime Branch Kalyan, present.

CORAM : BHARATI DANGRE, J

DATE : 19th OCTOBER, 2022.

P.C.

1] The learned APP confirm the statement of the learned counsel for the applicant that there is no recovery attributed to him and he is not even identified in the test identification parade.

Apart from this, the learned APP would also concede to the statement advanced on behalf of the Applicant, that in the confessional statement of the co-accused also, Applicant is not attributed any particular role.

2] In the wake of above statement, the Affidavit which attributed the Applicant as a member of organized crime syndicate falls flat in its face.

3] Now, the only ground which is pressed into service by the prosecution is, antecedents attributed to the Applicant in the form of

CR No.155/2015 and 298/2015, where Section 394 read with 34 of the IPC are invoked.

The specific submission of the learned counsel for the applicant is that, the Applicant is released on bail in these CRs.

4] In the wake of above statement, I do not think that Applicant deserve further incarceration since he was arrested in November, 2015, and is likely to complete 7 years in the month of November.

Though the offence with which he is charged is under MCOC Act, in absence of the prosecution establishing the ingredients of the offence, under the said enactment and cogent material to establish that he is member of the organized crime syndicate, the Applicant cannot be further incarcerated.

5] Moreover, it is also submission of the learned counsel for the Applicant that though the trial has commenced, the progress is at snail pace as only seven witnesses are examined till date.

He has placed on record order dated 05/03/2022 passed by the learned Special Judge (MCOCA) Thane, where he has specifically taken note of the lackadaisical approach of the prosecution.

Since the conclusion of the trial do not appear to be in immediate foresight, I deem it appropriate to release the Applicant on bail.

6] The observations made above are prima facie in nature and limited for the purpose of determination of the present Application and the learned Judge trying the Applicant for the offences, with which he is charged, shall not in any manner be influenced by the above order.

Hence, the following order :

ORDER

- (a) Application is allowed.
- (b) Applicant – Yawar Abbas Kazam Hussain Sayyed shall be released on bail in MCOC Special Case No.8/2015 arising out of C.R.No.22/2015 registered at Dombivali Police Station on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall report to the concerned Police Station on first Monday of every month between 3.00 p.m. to 5.00 p.m.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (e) The Applicant shall regularly attend trial, on every date, unless exempted.

[BHARATI DANGRE, J]