

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

CRIMINAL BAIL APPLICATION NO. 2658 OF 2022

Shankar Bhojappa Yerolla ...Applicant
Versus
The State of Maharashtra ...Respondent

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Mrs. Sonal Parab a/w Shirish Sawant i/b Rajeev Sawant & Asso.,
Advocate for the Applicant.

Mr. Pradip D. Gharat, Spl. PP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.
Date : 30th NOVEMBER, 2022.

PER COURT:

1. This is a second application for Bail before this Court. The previous application was rejected vide order dated 19th July, 2022. Pursuant to order dated 12th October, 2022 passed by the coordinate bench, the application has been listed before me.
2. The applicant is seeking Bail in Crime No.46 of 2017 registered with Dharavi Police Station, Mumbai, for the offences punishable under Section 387, 504 and 506(II) read with Section 34 of the Indian Penal code (for short 'IPC') 1860. Subsequently Section 3(1),(ii), 3(2), 3(4) of Maharashtra Control of Organized Crime (for short 'MCOCA') Act, 1999, were invoked.
3. Learned Advocate for the applicant submitted that, the applicant is in custody since 16th October, 2017. There is no progress in the trial. The coaccused Anil Patil had preferred an

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application for Bail before this Court which was rejected by the coordinate bench (Hon'ble Shri A. S. Gadkari, J.) vide order dated 21st January, 2021 on merits. The application for Bail preferred by the applicant was rejected by this Court vide order dated 19th July, 2021. The coaccused Anil Patil filed Special Leave Petition (Cri. No.3632 of 2021) before the Hon'ble Supreme Court and by order dated 28th May, 2021, the apex Court was pleased to grant liberty to the said coaccused Anil Shankar Patil to renew his prayer for bail before this Court after a period of about six months. Thereafter, the said coaccused preferred Bail Application No. 33 of 2022 before this Court and the said application was allowed vide order dated 29th July, 2022. It is submitted that, the other accused namely Mrugank Kalwallkar @ Mikkyi, Ravi Mallesh Bora @ D. K. Rao and Annadurai Balu Devendra preferred Bail Application before this Court viz, Bail Application No. 2388 of 2022, 2080 of 2022 and 2670 of 2022 which were allowed vide order dated 13th October, 2022 on the ground that, the accused were in custody for substantial period of time and that there is no progress in the trial.

4. Learned Special Public Prosecutor could not dispute the fact that, the accused as stated above were granted bail by this Court on the ground mentioned hereinabove.

5. The applicant is in custody from 16th October, 2017. It is

pertinent to note that, Anil Shankar Patil had preferred an application for bail before this Court and the said application was rejected on merits vide order dated 29th July, 2022. The accused had preferred Special Leave Petition before apex Court and vide order dated 28th May, 2021 liberty was granted to him to renew the prayer for bail, after a period of six months. The said accused Anil Shankar Patil preferred Bail Application No. 33 of 2022 before this Court which has been allowed vide order dated 29th July, 2022. While allowing the said application this Court had noted that, accused was in custody for substantial period of time. He was in jail for a period of about 4½ years, without trial. This Court referred the decisions in the case of *Union of India Vs. K. A. Najeeb (2021) 3 SCC 713*, *National Investigating Agency Vs. Areeb Ejaz Majeed, decided by Division Bench of this Court Criminal Appeal No.389 of 2020 dated 23rd February, 2021*, and the case of *Ajit Bhagwan Tiwde Vs. State of Maharashtra 2022 ALL MR (Cri.) 1687*. On the ground of long incarceration in custody, bail was granted to the said accused. It is pertinent to note that, it was the second application for bail of Anil Shankar Patil before this Court. Thereafter, vide order dated 13th October, 2022 the other coaccused Mrugank Kalwallkar @ Mikkyi, Ravi Mallesh Bora @ D. K. Rao and Annadurai Balu Devendra were granted bail on similar grounds and

considering the decision in the case of Union of India Vs. K. A. Najeeb (Supra), and National Investigating Agency Vs. Areeb Ejaz Majeed (Supra), it is the case of the prosecution that, the organise crimes indicate is headed by the coaccused D. K. Rao. He has been directed to be released on bail as aforesaid vide order dated 13th October, 2022.

6. The applicant is in custody for a period of about 5 years, there is no progress in the trial. While granting bail to the coaccused, this Court has observed that, the prosecution is relying upon the list of 65 witnesses filed alongwith charge-sheet which consume considerable time. Applicant is entitled for bail on the ground of parity and long incarceration in custody.

7. Hence I pass the following Order:

ORDER

- i. Criminal Bail Application No. 2658 of 2022 is allowed;
- ii. The Applicant is directed to released on bail in C. R. No. 46 of 2017 registered with DCB CID (corresponding C. R. No. 435 of 2017 registered with Dharavi Police Station) on furnishing P.R. bond to the extent of Rs.1,00,000/- with one or more sureties in the like amount;

- iii. Applicant shall report Dharavi Police Station once in a month on every first Saturday between 11.00 a.m. and 1.00 p.m. till conclusion of trial;
- iv. Applicant shall not leave India without prior permission of Special Court;
- v. 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.
- vi. Applicant shall furnish details of residence to the trial Court as well as to Dharavi Police Station and shall keep them updated if there is any change.
- vii. Applicant shall regularly attend trial, on every date, unless exempted.

(PRAKASH D. NAIK, J.)