

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

CRIMINAL WRIT PETITION NO.6100 OF 2021

Sunil Baliram Bane

...Petitioner

Versus

The State of Maharashtra

...Respondent

Mr. Sujit B. Shelar i/b Nakrani Legal Aegis, for the Petitioner.

Mr. A. R. Patil, A.P.P for the Respondent – State.

**CORAM : REVATI MOHITE DERE, J.
DATE : 2nd FEBRUARY 2022
(THROUGH VIDEO CONFERENCING)**

P.C. :

1. Heard learned counsel for the parties.
2. By this petition, the petitioner has sought the following substantive reliefs:-

- “A) That this Hon’ble Court may be pleased to issue an appropriate Writ/Order/Direction thereby directing the Trial Court i.e. 3rd Additional Sessions Judge and Special Court under Prevention of Corruption Act, Thane, to expedite the trial of the case i.e. Special Case No.07 of 2015, in a fixed time frame on day to day basis, in the interest of Justice;
- B) That this Hon’ble Court may be pleased to issue an appropriate Writ/Order/Direction thereby directing the Trial Court i.e. 3rd Additional Sessions Judge and Special Court under Prevention of Corruption Act, Thane, to conclude the trial of the case i.e. Special Case No. 07 of 2015, within a period of one year, or any other time frame as this Hon’ble may deem fit and proper in the interest of justice.”

3. Learned Counsel for the petitioner submits that the complainant's examination-in-chief commenced on 3rd October 2016, however, thereafter, there was hardly any progress in the said case. He submits that the complainant – Mayank Sundarani was further examined once in April 2018 and once in June 2019. He submits that till date the complainant's examination-in-chief is not complete. He submits that the trial once having commenced should have been taken by the learned Judge on day-to-day basis and concluded expeditiously. He submits that right to speedy trial is a fundamental right guaranteed to an accused under Article 21 of the Constitution of India. According to the learned counsel, delay in trial, has resulted in the petitioner suffering immensely i.e. mental, physical and emotional. He submits that in view of the aforesaid, the trial Court be directed to conclude the trial within a particular time frame, expeditiously.

4. Learned APP has no objection, if the trial is expedited.

5. Perused the papers. This Court vide order dated 21st December 2021, passed in the aforesaid petition had called for the status-report of the

case i.e. Sessions Case No.7 of 2015, which is pending before the learned Additional Sessions Judge and Special Court under the Prevention of Corruption Act, Thane. Pursuant thereto, the learned Judge submitted his report dated 13th January 2022. From the said report, it appears that the examination-in-chief of the complainant – Mayank Sundarani commenced on 3rd October 2016 and his further examination-in-chief was taken on 5th April 2018 and 13th June 2019. It is further stated in the said report that due to the pandemic and the lock-down, there was no progress in the case and that the learned Judge had taken charge of the Court only on 7th June 2021. It is further stated that on 27th October 2021, the prosecution filed an application for issuing summons to the said witness i.e. the complainant in the said case, which was returned unserved. It is further stated that on 17th November 2021, the learned APP was absent and that no steps were taken by the prosecution and as such the matter was again fixed on 18th December 2021. It is further stated that on the said date i.e. 18th December 2021, the prosecution filed an application for issuing witness summons, pursuant to which, witness summons, was issued and the matter was fixed for further examination-in-chief of PW 1 on 20th January 2022. Today, both the learned counsel for the petitioner and the learned APP are unable to inform this

Court what transpired on 20th January 2022. Be that as it may.

6. The petitioner is the original accused who was chargesheeted in C.R. No.29 of 2014, registered with the Rabodi Police Station, Thane, under the Prevention of Corruption Act, for allegedly accepting a bribe of Rs. 3 lakhs. It appears that after charge-sheet was filed, the petitioner's plea was recorded, to which he pleaded not guilty. Thereafter, in 2016 the complainant stepped in the witness-box. Thereafter, further examination of the complainant took place in 2018 and 2019, after which there was no progress/development in the said case. It appears that the prosecution has also not been diligent in ensuring that its witnesses are present, as is evident from the report of the learned Sessions Judge. An accused has a right to speedy trial, guaranteed under Article 21 of the Constitution of India. Strictly speaking the trial once having commenced should have been concluded expeditiously, as mandated both under the Code of Criminal Procedure and under the Prevention of Corruption Act.

7. Considering that the case is of 2015 and there is no progress in the trial, the trial of the petitioner is expedited. The learned Sessions Judge

to conclude the case, as expeditiously as possible, and in any event within 12 months from the date of receipt of this order. The learned Judge to ensure that the prosecution keeps all its witnesses present on the dates given by the Court.

8. The learned APP also assures that the prosecution will take all steps to secure the presence of the witnesses and ensure that the said witnesses are present on the dates given by the Court.

9. Learned Counsel for the petitioner assures to place the order passed today before the learned trial Judge, so as to enable him to comply with the same.

10. The Petition is allowed in the aforesaid terms and is accordingly disposed of.

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

REVATI MOHITE DERE, J.