

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3942 OF 2021**

Kailash Balaji Gummaneh .. Applicant

Versus

The State of Maharashtra .. Respondent

**WITH
INTERIM APPLICATION NO.449 OF 2022
IN
BAIL APPLICATION NO.3942 OF 2021**

Sandeep Sunil Kumar .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

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Ms.Sudha Dwivedi with Ms.Khushboo Jain and Ms.Gauri Pednekar for the Applicant.

Smt.Aruna Pai, Spl.P.P. for the State/Respondent.

Mr.Himanshu Kode for the Intervenor.

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**CORAM: BHARATI DANGRE, J.
DATED : 17th AUGUST, 2022**

P.C:-

1. Heard learned counsel for the applicant, learned counsel for the complainant and learned Spl.P.P. for the State.

The applicant seeks his release on bail in Sessions Case No.281 of 2013, where he is charged for the offences punishable under Sections 302,120-B, 201 read with Section 34 of IPC alongwith Sections 3(25), 3(27) and 4(27) of the Arms Act. He came to be apprehended on 04/04/2013 when the C.R.No.67 of 2013 was registered with Vashi Police Station and the investigation was subsequently transferred to Crime Branch,Unit-1.

2. Learned counsel for the applicant has placed before me an order passed by the Hon'ble Supreme Court in case of the co-accused -Arif Gulamn Dastgir Shaikh on 03/06/2022, when he preferred a petition for being released on bail.

Recording that the petitioner is languishing behind bars for around 9 years and the trial is going on, though the application was vehemently opposed on behalf of the complainant on the ground that there is every possibility that the petitioner may influence the witnesses, Their Lordships of the Hon'ble Supreme Court, taking into account the long

incarceration and that fact that out of 199 witnesses, only 66 witnesses were examined, were pleased to release the co-accused on bail, subject to such terms and conditions that would be imposed by the learned Trial Judge. In addition, the order itself imposes certain conditions and made its adherence mandatory.

3. Learned Spl.P.P. would state that the prosecution proposes to scale down the number of witnesses to 90. In any case, even if these number of witnesses are to be examined, it would consume considerable time and, therefore, it is submitted by the learned Spl.P.P. that the conditions imposed upon the co-accused by the Hon'ble Supreme Court shall also be imposed upon the present applicant.

4. Learned counsel for the complainant vehemently opposed the release of the applicant on bail on the ground that the trial is at a crucial stage and if the applicant is now released on bail, there is every possibility of the prosecution witnesses being pressurized and of tampering of the prosecution case. He would further submit that as a victim, he is entitled to submit that the application deserves to be rejected, considering his involvement in the subject C.R., which has been crystallised in the charge-sheet.

5. On perusal of the order passed by the Hon'ble Supreme Court on 03/06/2022 in case of the co-accused and when he came to be released on bail on account of his long incarceration for 9 years, I see no reason why the benefit of the said order cannot be even extended to the present applicant. The applicant is apprehended on 04/04/2013 and, since then, he is awaiting the conclusion of trial. Considering the number of witnesses to be examined, culmination of trial will take some more time. Since speedy trial is recognized as a right available to the accused, I am inclined to extend the benefit of the order passed by the Hon'ble Supreme Court, passed on 03/06/2022, to the present applicant.

This is, however, subject to the stipulation that breach of any of the conditions imposed on the applicant, would entitle the prosecution as well as the complainant to prefer an application, seeking cancellation of bail.

6. The release of the applicant shall be subject to the following conditions.

: ORDER :

(a) Application is allowed.

(b) Applicant -Kailash Balaji Gummaneh shall be released on bail in connection with C.R.No.67 of 2013 registered with Vashi Police Station (subsequently transferred to Crime Branch Unit-1, Mumbai) on furnishing P.R. Bond to the extent of Rs.30,000/- with one or more sureties in the like amount.

(c) The applicant shall report to D.C.P.(Crime), CID, (Unit No.1), Crawford Market, Mumbai on every Saturday between 10.00 a.m. to 12.00 noon.

(d) The applicant shall not enter the area of Thane District as well Navi Mumbai Municipal Corporation, except for the purpose of attending the trial in the Sessions Court at Thane.

(f) The applicant, on his release on bail, shall furnish his address where he will reside, to the learned trial Judge as well as D.C.P.(Crime), CID, (Unit No.1), Crawford Market, Mumbai.

(g) 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. The applicant shall not tamper with evidence.

7. In view of the disposal of the application, interim application does not survive and stands disposed off.

(SMT. BHARATI DANGRE, J.)