

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4392 OF 2021

Devendra Baburao Jagtap	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Mr.Nitin Sejpal a/w Akshata Desai and Sakshi Sha for the Applicant.
Mr.S.V. Gavand, APP for the State.
API Sachin Wagh, DCB CID, Unit 1 present.

CORAM : BHARATI DANGRE, J

DATE : 4th OCTOBER, 2022.

P.C.

1] The Applicant is charged for the offence of murder alongwith the co-accused and came to be arrested on 16.02.2010 and till date he remain incarcerated and it is informed that the trial has just begun.

2] The learned counsel for the Applicant would heavily rely on the order passed by this Court in the case of co-accused Hasmukh Solanki, who was released on bail by this Court vide order 04.04.2022 (BA No.3386/2021) considering the delay in the trial, by referring to the decision of the Hon'ble Apex Court in the case of Saudan Singh vs. State of Uttar Pradesh, in Criminal Appeal No.308/2022, as well as catena of other decisions, where the Hon'ble Apex Court has released under-trial prisoners who are languishing in jail for long time.

3] Recently the Hon'ble Apex Court in the case of ***Sonadhar vs. State of Chhatisgarh (Spl. Leave to Appeal (Cri) No(s).529/2021)*** has once again deprecated the practice of keeping accused persons incarcerated, whatever serious nature of accusation faced by them may be. The Hon'ble Apex Court in fact has directed Legal Services Authority of every State/District to carry out survey and release those Accused/under-trials who are incarcerated for more than 10 years.

It is informed that the charge is recently framed.

4] In the present case, the Applicant has remained incarcerated for more than 12 years, as on date and no directions of expediting trial or concluding it in the stipulated period, would offer any solace to him.

Though the learned APP vehemently submit that the role attributed to the present Applicant is of the main assailant, I am not inclined to accept the said submission as the prosecuting agency and the State have not been able to try him for the last 12 years for the charge framed against him. Howsoever serious role attributed to him by the prosecution will not justify his further incarceration and it do not lie in the mouth of the prosecution to argue that he has played more serious role than the co-accused .

5] Without touching to the merits of the matter, I deem it appropriate to release the Applicant on bail, with the prosecution being left to conclude the trial with the pace they want to proceed with trial.

Hence, the following order :

ORDER

- (a) Application is allowed.
- (b) Applicant – Devendra Baburao Jagtap shall be released on bail in connection with C.R.No.I-24 of 2010

registered at Kurla 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 mark his attendance before the Investigating Officer on first Monday of every trimester between 10.00 a.m. to 11.00 noon.

(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 and shall not seek any adjournment.

(f) A request for postponement of the trial at the instance of Applicant on account of his absence for any unjustifiable reason will permit the prosecution to seek curtailment of his liberty on the ground that the trial is lingering at his request.

[BHARATI DANGRE, J]