

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.

CRIMINAL APPLICATION (BA) NO. 148/2022
(Nikhil S/o. Prakash Wankhede Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A. T. Bhautik, Advocate for applicant.
Mr. I. Damle, APP for non-applicant/State.

CORAM :- AVINASH G. GHAROTE, J.

DATED :- 04.03.2022

1. Heard Mr. Bhautik, learned counsel for the applicant and learned APP for the State. The applicant has been arrayed under Sections 307, 341, 354-A, 452, 504, 506 of the Indian Penal Code. The incident is dated 14.02.2021, the charge-sheet has been filed on 11.05.2021 and applicant has been arrested on 16.02.2021. This is the second bail application before this Court.

2. Learned counsel for the applicant submits, that in the earlier bail application which was dismissed by order 24.08.2021 on merits, by way of direction contained in para 7 thereof, the trial was expedited and liberty was granted to the applicant to apply afresh after the examination and cross-examination of the victim was complete, on its own merits. Relying upon **Krishnan Kumar Vs. State of Haryana** a petition for Special Leave

to Appeal (Crl.) No. 612/2022 decided on 31.01.2022, it is submitted, that seeking of relief of suspension of execution of sentence and release on bail, is a statutory right and there is no warrant for proposition that any appellant be debarred for renewing his prayer for suspension of execution of sentence for a particular period. It is therefore, contended that it would be permissible for the applicant to file another application for bail. At the outset, it is to be noted that the earlier application for bail was rejected on merits by order 24.08.2021. That being the case, unless the applicant is able to demonstrate any change in circumstance, the application would not be tenable.

3. No such change in circumstances have been demonstrated and therefore, on this ground the application cannot be entertained. That apart, the contention that since the trial was expedited and the Trial Court was requested to frame the charge within the next 45 days and conclude the trial as expeditiously as possible and in any event within 6 months from framing of the charge and the liberty to apply for fresh bail after examination and cross-examination of the victim in view of what has been stated in case of **Krishnan Kumar Vs. State of Haryana** would no longer be extant and it cannot be held that the applicant had any liberty, as was granted by the earlier order. Mr. Bhautik, learned counsel for the applicant has tried to argue on merits and addressed on the same, however I am not inclined to accept the

contention that this would be permissible in spite of the fact that there are no change in circumstances. Since the liberty which is granted, is no longer to extant and there are no change in circumstances, on these grounds the application is dismissed.

(AVINASH G. GHAROTE, J)

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