

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

CRIMINAL APPLICATION (BA) NO.330 OF 2022

Vishal S/o Santosh Gawali

Versus

State of Maharashtra, through P.S.O., P.S. Jalamb, Tah. Shegaon, Dist. Buldhana

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

Court's or Judge's Order

Shri R.M. Daga, Advocate for the applicant.

Shri T.A. Mirza, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 16/06/2022

1. The applicant is seeking bail in Crime No.94 of 2020, dated 29.04.2020, registered with Police Station Jalamb, District: Buldhana, for the offences punishable under Sections 302, 353, 143 and 109 of the Indian Penal Code.

2. Shri Daga, learned counsel for the applicant submits that while rejecting earlier application for grant of bail, leave was granted to the applicant to move a fresh application, if within one year, there will be no effective hearing (i.e. framing of charge, evidence etc.) commenced in the trial.

3. He further submits that the order withdrawing first application is dated 18.12.2020 whereas, the present application is filed on 05.04.2022 i.e. much after lapse of period of one year.

4. He further submits that there is also change in circumstances, the co-accused, whose role was similar with the role of the applicant has been granted bail. He therefore, submits that the applicant is entitled for parity.

5. Shri Daga, learned counsel for the applicant has drawn attention of this Court to the order passed by this Court on 18.01.2021, in the case of *Bharat S/o Sudhakar Mirge Vs. State of Maharashtra*, in Criminal Application (BA) No.1180 of 2020. He submits that the co-accused who is the owner of the tipper is granted bail. He submits that the present applicant is the driver of the vehicle, except this, there is no difference in the role of the co-accused.

6. On the other hand, Shri Mirza, learned APP strongly opposes the present application.

7. This Court permitted the applicant to withdraw his earlier application, on expressing disinclination by this Court to grant bail. However, a liberty was granted to the applicant to move a fresh application after one year, if there will be no progress in the trial. It is pointed out that even after lapse of about one and half years, there is no progress in the trial.

8. Moreover, there is a change in the circumstance, because of grant of bail to the co-accused, whose role is similar to the role of the applicant. In that view of the matter and considering the fact that the charge-sheet

has already been filed and no further custody of the applicant is necessary, I pass the following order:

- a) The criminal application is **allowed**.
- b) It is directed that the applicant shall be released on bail in Crime No.94 of 2020, registered with Police Station Jalamb, District: Buldhana, for the offences punishable under Sections 302, 353, 143 and 109 of the Indian Penal Code, on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned Police Station as and when his presence is required.
- d) The applicant shall not tamper with the prosecution witnesses.
- e) The applicant shall not leave the jurisdiction of the concerned Police station without permission of the Court.

The criminal application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]