

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

CRIMINAL APPLICATION (BA) NO. 634 OF 2022

Shubham Shekhar Tayde **Versus** State of Maharashtra, through P.S.O., Imamwada, Nagpur.

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

Court's or Judge's Order

Shri U.P. Dable, Advocate for the applicant.

Shri A.M.Deshpande, A.P.P. for the non-applicant /State.

CORAM : ANIL S. KILOR, J.

DATED : 06/07/2022.

1. The applicant is seeking bail in connection with Crime No. 02/2019, registered with Police Station Imamwada, Nagpur, for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860, Sections 4 and 25 of the Arms Act, 1959 and Sections 135 and 142 of the Maharashtra Police Act, 1951.

2. Learned counsel for the applicant submits that all other accused persons have already been released on bail except the present applicant, who is in jail since January-2019. It is submitted that on completion of the investigation, the charge-sheet has been filed. He further points out that till today, even the charge is not framed. Thus, he submits that it will take long time to conclude the trial.

3. Shri U.P.Dable, learned counsel for the applicant points out that on showing disinclination by this

Court to grant bail, the earlier application was withdrawn on 16/11/2021. He further points out that this Court, however, granted liberty to the applicant to apply for bail afresh, if there is undue delay in the trial.

4. Thus, he points out that even after lapse of about nine months, the charge is not framed. Thus, there is no progress in the trial. Accordingly, in view of the liberty granted to the applicant, he submits that the present application is filed.

5. On the other hand, Shri A.M.Deshpande, learned APP strongly opposes the present application. He submits that the role of the applicant and the role of the other accused persons are different therefore, the applicant cannot claim parity.

6. In this case, learned APP further points out that there are criminal antecedents against the applicant and therefore, if he is released on bail, there is every possibility that he may repeats the offence. Accordingly, he prays for rejection of the present application.

7. I have perused the Charge-sheet and the FIR.

8. This Court, after showing disinclination to grant of bail, the applicant wished to withdraw the first bail application with liberty to apply a fresh application if there is undue delay in the trial. The said order was passed on 16/11/2021, thereafter, a period of about nine months is

lapsed. However, there is no progress in the trial and even till today, the charge is not framed.

9. In this case, after completion of the investigation, the charge-sheet has been filed. As such, further custody of the applicant is not necessary.

10. All other co-accused persons have already been released on bail, and considering the role of the applicant and the role of the other accused persons, it cannot be said that the role of the present applicant was different. Similarly, there were criminal antecedents of other co-accused persons, who were released on bail. Hence, the applicant is entitled for parity.

11. Nothing has been pointed out that, if the applicant is released on bail, he may not be available for trial. In the circumstances, I am of the considered view that the applicant is entitled for grant of bail on parity by putting some stringent conditions. Accordingly, I pass the following order:

- i) The application is **allowed**.
- ii) It is directed that applicant shall be released on bail in Crime No.2/2019, registered with Police Station Imamwada, Nagpur, for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860, Sections 4 and 25 of the Arms Act, 1959 and Sections 135 and

142 of the Maharashtra Police Act, 1951, on his furnishing P.R. Bond of Rs.25,000/- with a solvent surety of like amount.

iii) The applicant shall not enter the territorial jurisdiction of Nagpur City, till the culmination of the trial, except for the trial.

iv) The applicant shall give his address to the concerned Police Station.

v) The applicant shall attend the concerned Police Station on 01st and 16th of each month between 10.00 a.m. to 12.00 noon. In case of any breach of the condition will entail the State to apply for cancellation of bail.

The application is accordingly **disposed of**.

[ANIL S. KILOR, J.]