

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

Criminal Application (BA) No.654/2022

Sheikh Ashim Sheikh Rashid V State of Maharashtra thr PSO PS Wathoda, Nagpur

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri D.M. Dixit, Advocate for applicant.

Shri T.A. Mirza, APP for State.

CORAM : ANIL S. KILOR, J.

DATE : 05-07-2022

The applicant has approached to this Court by filing the present application under Section 439 of the Code of Criminal Procedure for grant of bail in connection with Crime No.0307/2020 dated 18-09-2020 registered with Police Station Wathoda, District Nagpur city for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. The learned Counsel for the applicant submits that earlier twice the request of the applicant was denied by this Court for grant of bail and thereon, the applications were withdrawn by the applicant. However, he submits that while withdrawing the second application on 18-12-2021, this Court had granted liberty to the applicant to renew his prayer for grant of bail in case the charge has not been framed in the next four months. He submits that, after the said order, more than a period of six months is lapsed and no charge is framed. Accordingly, he submits that this

Court may consider the prayer of the applicant for grant of bail.

3. He further argues that the main accused has already been released on bail by the learned trial Court on 30-01-2021 and accordingly he claims parity.

4. On merits it is submitted that the applicant has been falsely implicated in the alleged offence and the statement on which the prosecution is relying upon to oppose the application, it was recorded belatedly on 20-09-2020 whereas the date of incident is 18-09-2020. He submits that the delay in recording the statements creates doubt about the veracity of the statement. Accordingly, he prays for grant of bail.

5. On the other hand, learned APP strongly opposed the application and submitted that twice this Court denied.

6. He further points out that on 01-07-2022 the matter was fixed for framing of charges, therefore, there is every likelihood that the trial will be concluded in near future.

7. He further submits that except the fact that the charge is not framed there is no change in circumstances. Accordingly, he opposes the application and prays for rejection of the same.

8. I have perused the case diary and the documents filed along with the application.

9. The learned Sessions Court had granted bail to the co-accused on 30-01-2021.

10. Thereafter, on 30-06-2021 the learned Counsel for the applicant withdrew the first application on expressing disinclination to grant bail by this Court. Thereafter, in second attempt again on showing disinclination by this Court to grant bail, the application came to be withdrawn on 18-12-2021.

11. From the above referred facts it can be seen that the orders dated 30-06-2021 and 08-12-2021 are subsequent to order dated 30-01-2021 granting bail to the co-accused. Thus, at this stage, except the fact that the charge is not framed within the time mentioned in the order dated 30-06-2021 there is no reason for moving the present application.

12. In view of the statement made by the learned APP that the matter is fixed for framing of charges, I am of the opinion that if the trial is expedited the purpose would be served. Accordingly, I pass the following order:-

ORDER

- i) Application is rejected.

ii) The trial Court is requested to expedite the trial and complete the same as far as possible within next six months.

(Anil S. Kilor, J.)