

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 457 OF 2023

PRAVIN ANANDA RASAL
VERSUS
THE STATE OF MAHARASHTRA

...

Advocate for the applicant : Mr. Nitin Shejpal i/b Mr. S.R. Andhale
A.P.P for Respondent State : Mr. K. S. Patil

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WITH
CRIMINAL APPLICATION NO. 1432 OF 2023
SHARAD @ GAURAV RAGHUNATH PAWAR
VERSUS
PRAVIN ANANDA RASAL AND ANOTHER

...

Advocate for the applicant : Mr. N. B. Narrwade
Advocate for the respondent Mr. S.R. Andhale
A.P.P for respondent State : Mr. K. S. Patil

...

CORAM : S. G. MEHARE, J.

Reserved on : 20.04.2023

Pronounced on : 26.04.2023

PER COURT :

1. The applicant seeking bail in C.R. No. I-159/2014 registered with Parner Police Station, for the offences punishable under Sections 307, 143, 148, 149, 323, 504, 506, 109 of the Indian Penal Code and Sections 4/25 and 3/25 of the Indian Arms Act.

2. Before adverting to the arguments of the respective counsels some facts needs to be mentioned here.

3. In the present crime, the accused was arrested on 24th June 2015. His first bail application of the applicant was rejected, however, the learned Additional Sessions Judge, granted him bail on 7th June 2016. When he was on bail, he committed another crime and the M.C.O.C Act was applied. The bail granted to him in this crime was canceled by an order dated 02.08.2018. He did not impugn that order; hence it has attained the finality. However, in another crime, which was registered subsequent to this crime, the applicant was granted bail.

4. Now the applicant is seeking bail on two counts firstly on the parity and secondly for languishing in jail for more than 5 years and 8 months.

5. The learned A.P.P for respondent/ State and learned counsel Mr. N. B. Narwade, opposing the bail application have vehemently argued that since the earlier bail was cancelled and its order attained the finality, the applicant can neither claim parity nor claim for bail on the ground of the length of his languishing in jail.

6. The learned counsel Mr. Nitin Shejpal for the applicant has argued at length. Narrating the history of his past, he has argued that brother of the applicant namely Pintu had been granted bail in the present crime. The role attributed to him and the applicant is identical. Referring to the the injury report, he argued that the so called person suffered injury due to the acts of the applicant had suffered the simple injuries. So the applicant deserves bail on the ground of parity.

7. Secondly, he claimed the bail on the ground that till date only one witness has been examined and there is no possibility of completing the trial in near future. To bolster his argument he relied on the case of

- (i) Menino Lopes Vs. State of Goa 1995(1)Bom.C.R. 334,
- (ii) Union of India Versus K.A. Najeeb 2021 DGLS(SC) 45,
- (iii) Iqbal Ahmed Kabir Ahmed Versus State of Maharashtra, 2021 DGLS (Bom.) 991,
- (iv) Chintan Vidyasagar Upadhyay Vs. State of Maharashtra 2021 DGLS (SC)1138,
- (v) Ajit Bhagwan Tiwde Vs. State of Maharashtra, Bail Application No. 995 of 2021 (Bombay)

8. Reading the above case laws, judicial pronouncement were that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts, unless the same is established before a neutral arbiter. It has also been pronounced that long period of custody without hopes of completing the trial in near future, is good ground for bail.

9. As far as the parity is concerned, the rule is the role attributed to the applicant shall be identical to the role attributed to the co- accused whom the bail has been granted.

10. In the case at hand, before granting bail to the other co-accused, the bail was granted to the applicant in the year 2016. However, when he was on bail, he committed another crime and thereafter his bail order was cancelled. The order cancelling bail has attained the finality. Unless the order cancelling the bail is disturbed by the higher Court, it would not lie in his mouth that he is entitled to parity and he deserves bail for his detention in jail for sufficient length.

11. The ratio laid down in the above case laws by the higher Court is to be applied based upon the facts of each case. In bail application, Court has to consider the past of the accused and the possibility of involvement in another crime. Considering the conduct of the

applicant, and his involvement in another crime, soon after granting him bail in this Crime, the Court is of the view that the applicant is neither entitled to claim parity nor seek the bail for the length of languishing in jail. Before parting it must be mentioned here that till the applicant got bail in another crime, he never attempted for bail. Be that as it may, for the above reasons, the Court is not inclined to grant him bail. Hence, the application stands dismissed.

12. Criminal Application No.1432 OF 2023 stands disposed of.

(S. G. MEHARE)
JUDGE

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