

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

BAIL APPLICATION NO.1136 OF 2023

Satpal Mahadev Rupnavar ...Applicant

Versus

The State of Maharashtra ...Respondent

...
Advocate for Applicant : Mr. Rahul R. Karpe
APP for Respondent/State : Mr. K.S. Patil
...

CORAM : S.G. MEHARE, J.

DATED : AUGUST 02, 2023

PER COURT:-

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant, who is languishing in jail for ten years is seeking bail in Crime No.18 of 2013 registered with Ghargaon Police Station, District Ahmednagar for the offence punishable under Sections 307, 353, 332, 333 r/w 34 of the Indian Penal Code and Section 3/25 of the Arms Act.
3. The applicant is claiming the bail specifically under Section 436-A of the Criminal Procedure Code which provides that where the accused has undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, shall be released by the Court on his personal

bond with or without sureties. The exception is the offence for which the punishment of death has been specified.

4. Learned counsel for the applicant would argue that the applicant is not the accused in the crime registered under the Maharashtra Control of Organised Crime Act (for short 'MCOC Act'). Only one case was registered against him in which he has been acquitted. He would also argue that Section 10 of MCOC Act would not come in his way, as he is not the co-accused in the cases pending under MCOC Act against the co-accused in the present crime. He would argue that the applicant is languishing in jail for about ten years in this crime for no fault. Though he has been arraigned as an accused in another crime, that may not be a ground to refuse the bail. Since the trial has not been commenced as kept in abeyance as per Section 10 of MCOC Act, there is no hope of concluding the trial in the near future. Therefore, he deserve bail under Section 436-A of the Criminal Procedure Code.

5. He would also argue that the applicant has been arraigned as an accused for the offence punishable under Section 307 of the Indian Penal Code for which he may be punished with imprisonment of either description for a term which may extend to ten years or life imprisonment. Learned counsel for the applicant would submit that the applicant has almost undergone the maximum

sentence of ten years. Hence, he deserve bail under Section 436-A of Criminal Procedure Code.

6. Per contra, the learned APP would submit that the life imprisonment means the imprisonment till death of the human being. Therefore, the applicant cannot take the benefit of Section 436-A of Criminal Procedure Code. He would also argue that co-accused and the applicant have been arraigned as an accused for the offence under MCOC Act. Therefore, Section 10 of MCOC Act has been correctly applied. Since the proceedings could not be proceeded by the operation of the law, it cannot be said that it was deliberately delayed. That apart, there are antecedents to the discredit of the applicant. Hence, he may not be granted bail under Section 436-A of Criminal Procedure Code.

7. The question that has been raised is that the term 'life imprisonment means' the imprisonment till death of the human being. However, the Bombay High Court in the case of Suresh @ Pintya Kashinath Kamble Vs. The State of Maharashtra, Criminal Appeal No.272 of 2017 dated 21.09.2022 has clarified the term 'life imprisonment' for the purpose of undergoing the sentence. Discussing Section 57 of the Indian Penal Code, it has been held that "Section 57 leaves no scope of doubt, ambiguity or confusion as to how the term should be calculated when the accused is sentenced to suffer half of the life imprisonment. It provides that in such a case when the

fractions of imprisonment for life is to be calculated then life imprisonment should be reckoned as equivalent to imprisonment for twenty years. Thus, half of life imprisonment in such case would mean imprisonment for ten years.”

8. This Court has no reason to differ with a view taken by the Single Bench of this Court in above case, therefore, Section 436-A of Criminal Procedure Code would apply. Section 436-A of Criminal Procedure Code provides for granting bail to the under trial prisoners who have undergone half of the imprisonment. Since the applicant is not the co-accused in the MCOC Act, he should not unnecessarily be detained and kept behind bars as the trial has been kept in abeyance under Section 10 of MCOC Act, for the reasons that the Court has to assess the role of each accused in each trial. Herein the case, there are no cases pending against the applicant under MCOC Act. Section 436-A being a provision for granting bail to under trial prisoners should have been considered. Since last ten years the applicant is languishing in jail and there are no hopes of concluding the trial in the near future as the trial has been kept in abeyance as provided under Section 10 of MCOC Act. However, considering the past of the applicant, certain stringent conditions may be imposed. Hence, the following order :

ORDER

- (i) Bail Application is allowed.

(ii) The applicant, Satpal Mahadev Rupnavar, be released on bail on executing P.B. and S.B. of Rs.50,000/- (Rupees fifty thousand) with one solvent surety in the like amount in connection with the above crime, on the conditions that he shall not tamper with the prosecution witnesses.

(iii) The applicant shall attend the trial on each effective date.

(iv) The applicant shall not leave place of his residence without written intimation to the investigating officer.

(v) The applicant shall submit his permanent address proof and cell number with an undertaking to the police that he would not change his phone number till conclusion of all the trials pending against him.

(S.G. MEHARE, J.)