



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3131 OF 2023

GANESH RAMAPPA AIWALE	..APPLICANT
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

**ALONG WITH
BAIL APPLICATION NO. 3137 OF 2023**

DURGESH NAGAPPA PAWAR	..APPLICANT
VS.	
THE STATE OF MAHARASHTRA	..RESPONDENT

Mr. Kuldeep Patil a/w Mr. Nagesh Khedkar, Nikhil Hire i/b Ms. Saili Dhuru, for the Applicants.
Mr. P. H. Gaikwad, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 22, 2023

P.C. :

1. Heard learned counsel for the applicants and learned APP for the State.
2. These are the applications for bail in respect of the offence punishable under sections 302, 307, 120-B, 143, 147, 148, 323, 506 of the Indian Penal Code, 1860, under section 135 of the Maharashtra Police Act, sections 3(1)(i) (ii), 3(2)(3(4) of the Maharashtra Control of Organised Crime Act, 1999 (hereafter 'MCOCA', for short) registered on

04/07/2016 vide C.R. No.112 of 2016 with Vishrambaugh police station.

3. The gag leader is enlarged on bail. The applicants are the members of the gang. Learned APP has filed an affidavit in reply dated 20/12/2023 affirmed by Shri Annasaheb Maruti Jadhav, Sub-Divisional Police Officer, Sangli City Division, Dist- Sangli opposing the application for bail. It is submitted that there are antecedents reported against the applicants. Learned APP submitted that the applications be rejected considering that the applicants are accused of a grave offence.

4. My attention is invited by learned counsel for the applicant to the order dated 08/05/2023 passed by Hon'ble Supreme Court in Criminal Appeal No. 1404 of 2023 enlarging the gang leader on bail which reads thus :

“Leave granted.

The appellant was implicated in Crime No. 112 of 2016, registered on 05.07.2016, for the alleged offences punishable under Sections 302, 307, 120-B, 143, 147, 148, 149, 323, 504 of the Indian Penal Code, 1860, and under Section 135 of the Maharashtra Police Act, at Police Station Vishrambag, District Sangli, Maharashtra.

The appellant was arrested on 15.07.2016. The final report was filed on 29.12.2016. However, the charges have been framed only on 12.04.2023.

The result is that the appellant is in custody nearly for about seven years pending trial.

Though the learned standing counsel for the State has objected to the release of the appellant on bail on the ground of gravity of the offence, we are of the view that the period of incarceration of nearly seven years as an under trial prisoner is a pretty long period of time. However, the learned counsel for the State submitted that the appellant is also liable to be prosecuted under the Maharashtra Control of Organized Crime Act, 1999, and therefore, till the prime witnesses are examined, the appellant may not be permitted to enter the District.

Therefore, the appeal is allowed and the appellant is directed to be released on bail on such terms and conditions as may be imposed by the trial court. The trial court shall also impose a condition that till the prime witnesses named by the prosecution are examined, the appellant shall reside outside the District of Sangli. He shall be permitted to enter the District of Sangli to appear before the trial court on the dates fixed for trial of the case.

Pending application(s), if any, shall stand disposed of."

5. Since the applicants are incarcerated for more than 7 and half years, in view of the order of the Hon'ble Supreme Court, I am inclined to enlarge the applicants also on bail on the ground of long incarceration. Hence, the following order:-

ORDER

(a) The application is allowed.

(b) The applicant- Ganesh Ramappa Aiware and Durgesh Nagappa Pawar in connection with C.R. No.112 of 2016 registered with Vishrambaugh police station shall be released on bail on their furnishing P.R. Bond of Rs.50,000/- each with one or more local sureties in the like amount.

(c) The applicant-Ganesh Ramappa Aiware shall attend the investigating officer of Vishrambaugh police station once in a month on first Sunday of every month between 11.00 a.m. and 1.00 p.m.

(d) The applicant-Durgesh Nagappa Pawar shall attend the investigating officer of Vishrambaugh police station once in a month on first Saturday of every month between 11.00 a.m. and 1.00 p.m.

(e) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicants shall furnish their contact numbers and residential addresses to the investigating officer and shall keep him updated, in case there is any change.

(g) Except for attending the trial and for the purpose of

reporting to the investigating officer, the applicants shall not enter Sangli District till prime witnesses named by prosecution are examined.

(h) The applicants shall attend every date of the trial. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(i) The applicants shall not contact, influence or threaten the witnesses.

(j) It is made clear that any attempt on the part of the applicants to contact, influence or threaten the witnesses will be viewed seriously which may result in cancellation of this bail.

6. The applications are disposed of.

(M. S. KARNIK, J.)