

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.118 OF 2020
WITH
INTERIM APPLICATION NO.130 OF 2023

Dr. Shoma Kanti Sen W/o. Kanti Sen

... Applicant

V/s.

The State of Maharashtra and Anr.

... Respondent

Mr. Pradeep Mandhyan a/w Ms. Kritika Agarwal i/b Mr. Nilesh Ukey for Applicant.

Mrs. S.D. Shinde, APP for Respondent No.1-State.

Mr. Sandesh Patil a/w Mr. Shrikant Sonkawade, PP for NIA, Mumbai i/b Chintan Shah for Respondent No.2-NIA.

**CORAM : A.S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 17th JANUARY, 2023.

PC. :

1. By present bail Application, the Applicant has impugned Order dated 6th November, 2019 passed by the Additional Sessions Judge, Pune, rejecting her Application for bail.

2. As noted in Order dated 2nd December, 2022, the investigation of present Crime was subsequently transferred to the National Investigation Agency (*for short "the NIA"*) in the month of January, 2020 i.e. after passing of the impugned Order. After completion of further investigation, the NIA has filed supplementary charge-sheet in the Special Court (under NIA Act) at Mumbai. The said case arising out of present crime is now pending for final adjudication in the Special Court (under NIA Act) at Mumbai.

3. It is to be noted here that, after the NIA filed supplementary charge-sheet, in view of the substantive change in circumstance, the Applicant did not approach the trial Court, at the first instance for appreciation of evidence by it. This Court therefore does not have the benefit of assessment of entire evidence on record by the trial Court. It is therefore necessary for the Petitioner to approach the trial Court afresh for seeking bail under Section 439 of Criminal Procedure Code, so that the trial Court will get an opportunity to assess entire material available on record against the Applicant. Even otherwise, in view of substantive change in circumstance it is necessary for the Applicant to approach the trial Court by filing a fresh Application for bail.

4. Bail Application is accordingly disposed off by granting liberty to Applicant to approach the trial Court for filing fresh Application for bail.

5. In view of disposal of Bail Application, Interim Application No.130 of 2023 pending therein does not survive and is also disposed off.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)