

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

BAIL APPLICATION NO. 309 OF 2022

Ghulam Irani Jafrey

..Applicant

VS.

The State of Maharashtra

..Respondent

Adv. Bharat Manghani for the Applicant.

Mr. S. V. Gavand, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 9, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail by the applicant- Ghulam Irani Jafrey, in connection with C.R. No.I-91 of 2016 dated 20/02/2016, registered with Narpoli Police Station, under sections 394 and 34 of the Indian Penal Code, 1860, sections 37(1) and 135 of the Maharashtra Police Act and sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 ("MCOCA" for short).
- 3.** The applicant was arrested on 30/05/2019. The bail is

sought on the ground of parity. The applicant is in custody for more than 3 years and 8 months without any possibility of the trial concluding any time soon. My attention is invited to the order passed by the Special Court in bail application in MCOCA Case No. 6 of 2016 filed by the co-accused no. 10 who was a pillion rider whereas the present applicant was the rider of the bike. The role of the accused no. 10 and the present applicant is the same. Even other co-accused Abbas @ Abbasi @ Tarzan Majhum Khan, Ali Johar Jafari @ Irani, Faizal Ali Yusuf Ali Shaikh @ Ali Mahmud, Sayed @ Sarfaraj Firoj Jafery @ Sarfaraj Firoj Baig, Jafar Ali @ Tabrez Babar Ali @ Babar Shiraji @ Jafar Jafari and Sakina Johan Sayyed @ Irani have been granted bail. Paragraph no. 10 of MCOCA Case No. 6 of 2016, the MCOCA Special Court has observed thus:

“10] The role played by the co-accused who have been granted bail, is on higher footing to that of the present accused. Therefore, the principle of parity is perfectly applicable. The co-accused were also having criminal antecedents. Still bail has been granted to them. The accused is behind the bars since about two years. In such circumstances, accused is entitled for bail. Taking note of the criminal antecedents in order to have some check on his activities he can be directed to attend the police station.”

4. The activities of the applicant are in the area of Thane District, learned counsel for the applicant, on instructions, states that if the bail is granted, the applicant shall reside outside the Thane District till the trial is over. The statement is accepted. The investigation is complete and the charge-sheet has been filed. On the ground of parity and as the applicant is in custody for more than 3 years and 8 months the applicant can be released on bail, though there are criminal antecedents reported against the applicant. Hence, the following order.

ORDER

(a) Applicant- Ghulam Irani Jafrey, in connection with C.R. No.I-91 of 2016, registered with Narpoli Police Station, shall be released on bail, on his furnishing P.R. Bond of Rs.1,00,000/- with one or more sureties in the like amount;

(b) The applicant shall not pressurize the prosecution witnesses and tamper with the evidence;

(c) The applicant shall not leave India without prior permission of the trial Court;

(d) The applicant shall attend the trial Court regularly;

(e) The applicant shall produce address proof and mobile number of himself as well as of his 2 blood relatives alongwith the names of police stations in whose jurisdiction they are residing;

(f) The applicant shall attend the office of ACP (East) Division, Bhiwandi, once in a month i.e. on first Saturday of every month at any time in between 10.0 am to 01.00 pm till conclusion of the trial.

5. The application stands disposed of.

(M. S. KARNIK, J.)