

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

BAIL APPLICATION NO. 722 OF 2023

Pramod @ Khandya Balasaheb
Dharashivkar

Age : 33 Years, Occu. : Agriculture,
R/at : Vitthal Kripa Society, New Vikas
Nagar, Khed, Tal. - Dist. : Satara.

...Applicant

vs.

The State of Maharashtra,
[Through Sub – Divisional Officer,
Satara Division, Satara]

...Respondent

Mr. Shailesh Chavan – Advocate for Applicant.

Mr.H.J.Dedhia – APP for the Respondent – State.

CORAM : S. M. MODAK, J.

DATED : 7TH JUNE 2023

P. C. :-

1. Heard learned Advocate Shri.Chavan for the Applicant who is Accused No.1 who is the head of the crime syndicate and learned APP for Respondent-State.

2. The trial for the offences under Sections 395, 341, 509, 504, 506 of Indian Penal Code, 1860 [“IPC”] and under Sections 3(1)(ii), 3(2), 3(4) of Maharashtra Control of Organised Crime Act, 1999

[“MCOC Act”] and under Sections 39, 45 of the Maharashtra Money-Lending (Regulation) Act, 2014 has begun and in fact, two witnesses are also examined. That is why, when this Court heard this matter on 26th April, 2023, directed the learned APP to take instructions through the Officer about status of the case.

3. Today, learned Advocate Shri.Chavan brought to my notice, copies of notings in the roznama dated 3rd April, 2023, 15th April, 2023 and 15th May, 2023. (extract from e-Court website of the District Court : Special Case No. 115 of 2020. They do not suggest that any more witnesses were examined on behalf of the Prosecution, but it only records filing of Bail Application by Accused No.5 – Ajit and recording that another MCOC Case No. 111 of 2020 is pending for arguments on Bail Application.

4. Just because, Bail Application is pending in another case, why the trial of the Special Case is halted. On the last occasion, my attention is also brought to an order dated 31st January, 2023 passed in Special Case No. 115 of 2020. On that occasion also, learned Special Judge directed the parties to hear on one point. It is not clear on which point learned Special Judge wants to hear the parties. The said order only mentions another Special Case No. 111 of 2020 is

also pending. Learned Judge has to supervise the conduct of the trial and he should try to see that conduct of trial which has started should not be delayed. He should not act as mere spectator. Situation brought on record through copies order roznama warrants me to make this observation. Let us hope that the learned Judge will be attentive in ascertaining that the trial will not be delayed hereafter.

5. In view of the above circumstances, the grievance is that there is no progress in the trial and that is why, Mr.Chavan has restricted his argument to the ground of delay in trial. He invited my attention to an order passed by this Court in Criminal Bail Application No. 4229 of 2021 in favour of the present Applicant passed on 19th October, 2022. This Court has elaborately dealt with what is the effect of a delay on trial involving offences under the Special Act.

6. The provisions of Section 21 vis-a-vis '*right to speedy trial*' is also discussed. There is reference to the provisions of other Special Acts and various judgments. Finally, it is observed that the embargo under the provisions of Special Acts will not come in the way of grant of bail whether there is long incarceration. This Court has also taken a note of the provision of Section 436-A of the Code of Criminal Procedure, 1973 ["Cr.P.C."].

7. This Court feels that in this case, the Applicant deserves to be released on bail on the ground of **no progress in the conduct of the trial.**

8. It is true that the present Applicant is described as a gang leader of the crime syndicate. Sub-divisional Police Officer – Ganesh Ramchandra Kindre has filed an affidavit. There are in all 24 offences registered against the Applicant ranging from 2011 to 2017. They are under various sections of the IPC and other Acts. Even though the incident took place on 26th April, 2014, FIR came to be lodged on 3rd March, 2018. (Page No.123).

9. The present Applicant along with his associates took away a forcible possession of the truck belonging to the First-Informant on the pretext of recovering the money advanced by him to the First-Informant. Even though the First-Informant claims that he has repaid the amount, still forcible possession of the truck was taken under the justification that still the First-Informant owes an amount to him. During investigation, witness Ajim Patel has identified the present Applicant during the parade. There are statements recorded of the witnesses under Section 164 of Cr.P.C. The identity of one witness is also hidden in view of fear of terror of the present Applicant.

10. The Prosecution in the affidavit has elaborated what are the various materials against the present Applicant. But as said above, the request for bail is restricted only for delay in trial. Up till now, only two witnesses are examined. One does not know how much time it will take for completion of the trial. The applicant is arrested on 6th August, 2017. Furthermore, the maximum punishment for these offences is upto life imprisonment. So, this Court feels that there is right accrued in his favour to ask for bail.

11. Hence, order :-

ORDER

- (i) Applicant Pramod @ Khandya Balasaheb Dharashivkar be released on bail in connection with C.R. No. 96 of 2018 registered with Satara City Police Station – Satara on furnishing personal bond and surety bond of Rs.50,000/-.
- (ii) Applicant to give attendance to Satara City Police Station – Satara on Monday and Thursday from 10.00 to 12.00 noon until completion of the trial.
- (iii) Applicant not to threaten the Prosecution witnesses or to allure them in any manner.
- (iv) Applicant to furnish local surety who is having residence within territorial limits of Satara Revenue district.

(v) In case of breach of any of the conditions, the bail of the Applicant is liable to be cancelled after notice.

12. These are my prima facie observations. Let the learned trial Court need not be influenced by them.

13. Application is disposed of in the aforesaid terms.

14. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]