

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.835 OF 2023**

Siddhesh Shantaram Tamhankar .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr.Ashok Saraogi a/w Mr. Anand Mishra for the applicant.
Mr.A.M. Chimalkar, Spl.P.P a/w Ms. Aishwarya Sharma a/w Mr.
Siddharth Jagushte for the State.

**CORAM: BHARATI DANGRE, J.
DATED : 9th OCTOBER, 2023**

P.C:-

1 On 7/09/2022, the bail application preferred by the applicant was withdrawn as the Special PP Mr. Chimalkar, made a categorical statement that the trial shall be concluded within period of six months. Accepting the aforesaid statement, Mr. Saraogi sought permission to withdraw the application.

2 The applicant is constrained to approach this Court on one more occasion, as the trial, which was assured to be completed within six months is not yet over.

Mr. Chimalkar, the learned Special PP state that before the Sessions Judge, the prosecution had informed, on 7/10/2023 about four witnesses to be examined namely the FSL expert, the Investigating Officer and two others and the Court recorded so.

Today, Mr. Chimalkar make a statement that they are desirous of examining only three witnesses, i.e. FSL expert, the Investigating Officer and one Mr. Bhosle and they have decided to drop the fourth witness Mr. Tripati.

Accepting the aforesaid statement, let this be communicated to the Sessions Judge, who is in seisin of Sessions Case.

3 When I have perused the order dated 7/10/2023, it is recorded that the FSL witness is not traceable but, today Mr. Chimalkar make a statement that he has been traced and he is undergoing training on being recruited in a bank. The prosecution must ensure that summons are issued to him and he shall be presented before the Court for recording his evidence within period of two weeks from today.

The other two witnesses i.e. the Investigating Officer and Mr. Bhosle would also be examined alternatively, and in any case, according to Mr. Chimalkar, the examination of the witnesses is likely to be completed by the end of this month.

4 With the little leeway made available to the prosecution, since the learned Judge has already expressed that the sessions trial would continue on day- to-day basis and it was posted today but, Mr. Saraogi make a specific statement that none of the witnesses is present in the Sessions Court today, adjusting the today's date, let the prosecution take steps to make the three witnesses available for their examination in any case on or before 4/11/2023.

5 The learned Special PP assures this Court that, all the three witnesses shall be examined before the Sessions Judge on or before 4/11/2023.

It is also made clear to Mr. Chimalkar that in case if the witnesses for some reason are unable to remain physically present, he shall make request to the Sessions Judge for recording their evidence through video conferencing but, their physical presence shall for no reason be insisted upon, in case of any difficulty posed by any of the three witnesses.

With this timeline, I see no difficulty in the Sessions Judge proceeding ahead for recording the statement of two accused persons under Section 313 as well as concluding the arguments on or before 30/11/2023 and expect the judgment to be delivered before 31/12/2023.

With this timeline to be expected to be adhered with, if there is any failure, let the Sessions Judge consider the bail application on the ground that it is the Court which is responsible for not concluding the trial, within stipulated period and the entitlement of the applicant only on the ground of long incarceration shall be a ground for consideration.

Bail Application stands disposed off.

(SMT. BHARATI DANGRE, J.)