



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 984 OF 2023

Yusuf Mehmood Shaikh @ Bicchu

.....Applicant

Vs.

State Of Maharashtra

.....Respondent

Adv. Zoheb Shaikh for the Applicant.

Mr. J.P. Yagnik APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.

DATE : 31st AUGUST, 2023.

P.C.:-

- 1) This is a third successive Application for bail by the Applicant.

The first Application preferred by the Applicant bearing Bail Application No.1536 of 2018 was dismissed as withdrawn by an Order dated 1st August, 2018. The Second Application bearing Bail Application No.1221 of 2020 was rejected by this Court on merits by an Order dated 11th February, 2023.
- 2) Present Application is filed predominantly on the ground that, the Applicant is in incarceration without trial for more than six and half years for an offence punishable under Section 307 r/w 34 of the Indian Penal Code.
- 3) Learned APP on instructions submitted that, the Applicant is also involved in five other cases of similar nature. The prosecution by 14th

July, 2023 had examined two witnesses and it was informed to this Court that, seven more witnesses would be examined. However, in last more than one month, there is no progress in the trial.

4) After applying the principles enunciated by the Hon'ble Supreme Court in the case of *Union of India V/s. K. A. Najeeb reported in (2021) 3 SCC 713*, followed by this Court in the case of Anil Shankar Patil V/s. The State of Maharashtra (Bail Application No.33 of 2022, dated 29th July, 2022), this Court is of the view that, the Applicant can be released on bail on the ground of prolonged incarceration without trial.

5) Hence, the following Order:-

- (i) Applicant be released on bail in C.R. No.391 of 2016 dated 24th October, 2016 registered with Mahim Police Station, Mumbai on his furnishing P.R. bond of Rs.50,000/- with one or more local sureties to make up the said amount.
- (ii) After his release from jail, the Applicant is directed to attend Mahim Police Station, Mumbai on every first Monday of the month between 10.00 a.m. and 12.00 noon initially for a period of three months and thereafter on every first Monday of every 3rd month between 10.00 a.m. and 12.00 noon, during the pendency of the trial.
- (iii) After his release from jail, the Applicant shall attend all

the dates before the Trial Court, unless exempted by the concerned Court on medical ground.

- (iv) Applicant shall provide his mobile and/or landline number, if any, to the Mahim Police Station.
 - (v) In case of any two consecutive defaults in marking presency as per the direction in clause No.(ii), in that event, the State will be at liberty to file an Application for cancellation of bail of Applicant.
 - (vi) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.
- 6) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)