

invited to an order passed by the Sessions Judge in case of another co-accused Mohsin Mohd. Issa Khan and he also state that co-accused Mohd. Harun Shaikh who is released on bail yesterday by the Sessions Court, though the order is not available with her.

2 I have perused the order passed on 11/8/2023 which, apart from the merits of the case, have recorded that the applicant is behind bar for more than five years and he cannot be blamed for the delay in trial and his presence could be secured by imposing stringent conditions. There is no reason why the observations made in case of co-accused shall not be made applicable to the present applicant who is also incarcerated since 22/3/2018.

It is trite position of law that the liberty guaranteed under Part-3 of the Constitution would cover within its ambit not only the procedure and fairness but also access to justice and right to have speedy trial. The incarceration of a person awaiting his trial for approximately five years, definitely, deserve his release on bail only on the ground of his long incarceration.

The counsel for the applicant has placed before me the roznama from the Special case No.79/2018 and one can notice the snail-speed of the trial.

Largely, it can be seen that the trial is required to be adjourned as the accused is not produced and in fact, it is also not in dispute that not a single witness has ever been produced for

being examined. With 10 witnesses being cited, one can imagine the fate of the trial and length of time which it may consume for its culmination.

In the wake of the above, the applicant deserve his release on bail. However, the learned APP state that he is resident of New Delhi as he is engaged in the work of gas repairs and there is every possibility that he may not make himself available for trial. I deem it necessary to impose a condition which would ensure his presence in the trial.

ORDER

- (a) The Applicant shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount, one of which shall be local sureties from Thane District.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (c) The Applicant shall mark his attendance to Thane Police Station on first Monday of alternate month between 10 a.m to 12 noon.

(d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

In view of the disposal of Bail Application, Interim Application No. 2610/2023 do not survive and is disposed off.

(SMT. BHARATI DANGRE, J.)