

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

**BAIL APPLICATION NO. 2761 OF 2022
(THROUGH JAIL)**

Rafiq Moinuddin Shaikh ..Applicant

VS.

The State of Maharashtra ..Respondent

Mr. Jairaj Sawant for the Applicant.

Mr. S. H. Yadav, APP for the State.

API – Vaishali Sarwade, Narpoli Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 21, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. This is an application for bail through jail. The applicant is facing accusations under MCOC Case No. 13 of 2012 pending on the file of the learned Special Judge, Thane for the offence punishable under section 395 of the Indian Penal Code, 1860 and sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999. The applicant was arrested on 02/08/2012 and is in custody since 10 years and 6 months.

3. Learned APP opposed the application by submitting

that the trial has already commenced and now only 4 witnesses remain to be examined. He further submitted that there are 18 criminal antecedents registered against the applicant. My attention is invited to the order dated 16/11/2017 passed by this Court by which this Court has rejected the bail application of the applicant.

4. This Court by order dated 10/10/2019 has ordered learned Sessions Judge to complete the recording of evidence by 30/04/2020. This Court had even observed that the applicant has undergone substantive punishment for 7 years. The recording of evidence is still on going. Merely because the trial is proceeding cannot be a ground for depriving the applicant the facility of bail in view of such a long incarceration and more so when the evidence was not recorded within the time earlier stipulated by this Court. The applicant has suffered incarceration for more than 10 years and 6 months. Though there are criminal antecedents registered against the applicant, considering the long incarceration of the applicant, the applicant's right to a speedy trial has to be balanced with the antecedents reported against him. Hence, the following order.

ORDER

(a) Applicant- Rafiq Moinuddin Shaikh in connection with MCOC Case No. 13 of 2012 pending on the file of the learned Special Judge, Thane, shall be released on bail, on his furnishing P.R. Bond of Rs.15,000/- with one or more sureties in the like amount;

(b) The applicant is permitted to furnish temporary cash bail surety in the sum of Rs.15,000/- for a period of 6 weeks in lieu of surety;

(c) The applicant shall attend the trial regularly;

(d) The applicant shall not leave Thane District without prior permission of the trial Court till the trial is concluded;

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence;

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

(g) The applicant shall be informed about this order.

5. The application is disposed of.

(M. S. KARNIK, J.)