

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2038 OF 2022

Akash Sanjay More	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Shantanu Phanse i/b Mr. Parth Shah, for the Applicant.

Mr. K. V. Saste, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 28th FEBRUARY, 2023

P.C. :

1. Heard learned counsel for the parties.
2. This is the second bail application preferred by the applicant seeking his enlargement on bail in connection with CR. No.256 of 2017 registered with the Kagal Police Station, Kolhapur, for the alleged offences punishable under Sections 395, 364(A), 387, 346, 506(2), 120B of the Indian Penal Code; under Sections 3(1)(ii), 3(2), 3(4), 3(5) and 4 of Maharashtra Control of Organized Crime

Act (MCOC Act) and under Sections 3(1) r/w 27 of the Arms Act.

3. Learned Counsel for the applicant seeks bail on the ground of parity. He submits that identically placed co-accused – Avdhut Lugde, has been enlarged on bail by this Court (Coram: N. R. Borkar, J.) vide order dated 6th December 2022, passed in Criminal Bail Application No.3359 of 2021, on the premise that till date charge has not been framed and that the conclusion of the trial will take a long time. Learned counsel has tendered a copy of the aforesaid order dated 6th December 2022. The same is taken on record.

4. Learned APP opposed the application.

5. Perused the papers. The first bail application of the applicant was dismissed as withdrawn vide order dated 5th April 2021, as the Court was not inclined to enlarge the applicant on bail. Whilst dismissing the said application, the trial of the applicant was expedited, considering the fact that the applicant was in custody since

2017. The learned Judge was also directed to conclude the trial as expeditiously as possible and in any event within one year from the date of receipt of the order. It is informed that till date the trial has not commenced, inasmuch as, even the charge has not been framed, till date. It appears that the prosecution intends to examine several witnesses and as such the same is likely to take time. The role of the applicant is stated to be identical to that of co-accused – Avdhut Lugde, who has been enlarged on bail by this Court vide order dated 6th December 2022, on the ground that the trial has not yet commenced and having regard to the right of the accused under Article 21 of the Constitution of India. This Court taking into consideration the orders passed by this Court in the case of *James Jaffrin Almeida @ Sam v/s The State of Maharashtra*¹ and *Anil Patil v/s The State of Maharashtra*² had granted bail to the applicant therein. The applicant in the present case is also in custody since 2017 and as noted above, charge has not been framed in the said case, till date, despite the trial having been expedited.

1 Criminal Bail Application No.175 of 2022 dated 15.3.2022

2 Criminal Bail Application No.33 of 2022 dated 29.07.2022

6. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:-

ORDER

- i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 50,000/- with one or two sureties in the like amount;
- ii) The applicant shall attend the concerned Police Station, on the first Saturday of every month, between 10:00 a.m. and 12:00 noon, till the conclusion of the trial;
- iii) The applicant shall not enter into the Corporation limits of Kolhapur City, except for the purpose of attending the trial Court;
- iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released

and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

v) The applicant to cooperate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

vi) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vii) An undertaking to the aforesaid clauses (ii) to (vi), shall be filed by the Applicant, in the trial Court, within two week's of his release;

viii) If there are 2 consecutive defaults either in attending the Police Station or in appearing before the trial Court, the prosecution will be at liberty to apply for cancellation of

Applicant's bail.

7. The Application is allowed and disposed of in above terms.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.