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

BAIL APPLICATION NO. 1779 OF 2022

Sumit @ Pappu Chandrakant Yerunkar ..Applicant
Vs.
The State of Maharashtra .. Respondent

Mr. Niranjan Mundargi a/w Mr. Omneel A. Jadhav i/b Mr.
Heramb Kadam, for Applicant.
Ms. A.S.Pai, PP a/w Mr. S. V. Gavand, APP for State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 3, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned PP.
- 2.** The applicant- original accused no.4 is seeking bail connection with C.R. No.19 of 2016 registered with D.C.B., C.I.D., Mumbai for the offences punishable under sections 452, 307, 34 read with sections 120B, 201 of the Indian Penal Code, 1860 ("IPC", for short) and sections 3, 25, 27 of the Arms Act, 1959; section 37(1)(a) of the Maharashtra Police Act as well as sections 3(1)(ii), 3(2) and 3(4) of the

Maharashtra Control of Organised Crime Act, 1999 ("MCOC", for short). The applicant is in custody since 16/02/2016. The date of the incident is 05/02/2016.

3. Learned counsel for the applicant submitted that the applicant is under incarceration for a long period of time i.e. almost for 6 years and 10 months and therefore should be granted the facility of releasing him on bail. There is undoubtedly substance in the submission of learned counsel for the applicant. The applicant is under incarceration for quite a long period and in ordinary circumstances, the applicant would be justified in seeking his release on bail. Furthermore, a submission is made that so far as the commonality of offence between members of the syndicate, is concerned, there is only one offence alleged against the applicant which is common along with one of the member of the crime syndicate i.e. accused no. 6.

4. Learned counsel relied upon the decision of the Honb'le Supreme Court in the case of ¹**Mohamad Ilyas Mohamad Bilal Kapadiya Vs. The State of Gujarat** and

¹ 2022 LiveLaw (SC) 538

the decisions of this Court in the case of ²**Yuvraj @ Abhi Mohan Mahadik Vs. The State of Maharashtra** and in the case of ³**Sagar Shivamani Patil Vs. The State of Maharashtra with Akshay Shiva Mini @ Patil Vs. The State of Maharashtra**. Even this submission is impressive.

5. Learned PP on the other hand strenuously opposed the application. She submitted that 35 witnesses are already examined and the trial is at an advanced stage nearing completion. She submits that 36th witness i.e. the Investigating Officer is under cross examination. She submits on instructions that trial will take not more than 2 months time to conclude as hardly 4 to 5 more witnesses are to be examined. She further relied upon the decision of the Hon'ble Supreme Court in the case of ⁴**Zakir Abdul Mirajkar Vs. The State of Maharashtra and ors.** to support her submission that even if one charge-sheet has been filed against the member of the crime syndicate, it is sufficient to attract ingredients of the offence punishable under MCOC.

2 Criminal Bail Application No. 1156 of 2021 dated 26/09/2022

3 Bail Application No. 599 of 2021 with Bail Application No. 2029 of 2021 dated 29/09/2022

4 2022 SCC OnLine SC 1092

6. I was impressed with the submission of learned counsel for the applicant that having regard to the long incarceration of the applicant of 6 years and 10 months, the applicant deserves to be released on bail. However, what dissuaded me from exercising discretion in favour of the applicant is the fact that in respect of C.R. No. 45 of 2010 for the offence under sections 302, 307, 34 of IPC tried by the Sessions Court, Alibaug where the applicant was sentenced to suffer life imprisonment, it is alleged that while on parole, the present offence is committed. No doubt, that in respect of C.R. No. 45 of 2010, the applicant was subsequently acquitted. I cannot ignore the allegation that the applicant while on parole is alleged to have committed the instant offence. Another circumstance which dissuaded me from exercising discretion in favour of the applicant is that the trial is on the verge of completion and as many as 35 witnesses have been examined.

7. Taking an overall view of the matter, as is the contention of the learned PP that hardly 4 to 5 witnesses are to be examined and trial is likely to conclude soon, in

my opinion, present is not a case where the applicant should be released on bail when the trial is at such an advanced stage. In my opinion, if the trial Court is directed to expedite the trial and conclude the same as early as possible, preferably within a period of 3 months from today, that would be sufficient to meet the ends of justice.

8. With these observations, the application stands rejected. In case, the trial is not concluded within a period of 3 months, liberty to file an application for bail afresh in this Court is kept open.

(M. S. KARNIK, J.)