

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2046 OF 2023

Gajendra @ Dada Tulshiram More .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr. Asim Sarode with Shriya Awale, Balkrishna Nidhalkar for the applicant.
Mr. H.J. Dedhia, APP for the State.
API B.R. Zarekar from Chaturshringi p.stn, Pune City present.

CORAM: BHARATI DANGRE, J.
DATED : 15th DECEMBER, 2023

P.C:-

1 On 16/9/2020, the application filed by the present applicant, securing his release on bail was rejected by me while he face accusations for committing an offence u/s.302, 120B, 143, 144, 147, 148, 149 of the IPC and Section 4(25) of the Arms Act r/w Section 37(1) along with Section 135 of the Maharashtra Police Act. On completion of investigation, charge-sheet filed in respect of the incident, which is alleged to have taken place on 1/11/2018.

2 The deceased in the incident received 30 injuries and the cause of death as per the post mortem report was attributed to multiple chop injuries.

By referring to the material in the charge-sheet which included that the statement of eye witnesses as well as reference to the recovery of CCTV footage, where the applicant was seen in the company of Omkar Yadav, I had refused to entertain the application by recording that the deceased was a young boy aged 27 years and he has been put to death by hatching a conspiracy and was brutally assaulted.

2 The present Application is filed for the second time in the year 2023, raising a specific plea of the trial not having commenced and of his long incarceration for more than five years. The applicant has expressed that he shall abide by whatever conditions the Court may impose, and he shall also attend the trial on regular basis, but awaiting the trial, he cannot be further detained and by relying upon various authoritative pronouncements, including the decision of the Apex Court and in case of *Union of India Vs. A.K. Najeeb*¹ and *Satender Kumar Antil Vs. CBI*², the learned counsel seek his release on bail.

3 It is not in dispute that in connection with the subject C.R, the applicant came to be arrested on 11/11/2018 and on completion of the investigation, charge-sheet is filed against 12 accused persons which is accompanied with a list of 57 witnesses. Despite the charge having been framed, not a single witness has been examined, and though the prosecution would harp upon the seriousness of the accusations levelled against the applicant and in

1 (2021) 3 SCC 713

2 (2021) 10 SCC 773

fact, the material in the charge-sheet persuaded me to reject his application on the first occasion, however, down the line, for three years after the application was rejected, there is no progress in the trial and one can just imagine the impossibility of the time-bound conclusion of the trial with 57 witnesses to be examined by prosecution and 12 accused being tried before the Addl. Sessions Judge, Pune.

Hence, at this stage, I am left with no option than to re-consider the application on the ground of long incarceration which on date, is more than five years.

With the culmination of trial not in foresight, nor any direction to conclude the trial in a time bound manner, would yield any result, the applicant deserve his release on bail, subject to a condition that he shall not, in any manner, attempt to pressurize the prosecution witnesses and shall continue to reside beyond the jurisdiction of Aundh area but for reporting to the police station, I must make it clear that the long incarceration is the only ground which deserve the applicant his release on bail. Hence, the following order :-

ORDER

- (i) The applicant Gajendra @ Dada Tulshiram More, who is facing trial in C.R. No. 549/2018 registered with Chaturshrungi Police Station shall be released on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.

- (ii) The applicant shall report to concerned police station, on first Monday of alternate month between 11.00 am to 1.00 p.m.
- (iii) On his release, the applicant shall furnish the police station his current address and mobile number and the change of residence or mobile details, if any, from time to time.
- (iv) The applicant shall not enter the jurisdiction of Aundh or the area nearby the residence of the victim and continue to reside beyond the jurisdiction of Aundh.
- (v) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner;
- (vii) The applicant shall co-operate in the conduct of the trial and attend the trial Court on all dates, from time to time.

(SMT. BHARATI DANGRE, J.)