

Maria S.

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

CRIMINAL BAIL APPLICATION NO. 2182 OF 2023

Akbar Badshah Miya Kaimatjan ... Applicant
Versus
The State of Maharashtra (At the instance of ...Respondent
DCB CID)

Mr. Zoheb Shaikh *a/w Mr. Zuber Chakoli for Applicant.*

Mr. S. V. Gawand, APP for State.

CORAM: PRAKASH D. NAIK, J
DATED: 13th SEPTEMBER 2023
(THROUGH V.C.)_____

P.C.

1. The applicant is seeking bail in C.R. No.55/2017 registered with DCB, CID.
2. The previous application for bail preferred by the applicant was rejected vide order dated 05.03.2019.
3. In view of the order passed by the coordinate Bench and the administrative directions, the application has been listed before me since the previous application for bail was rejected by me vide order dated 05.03.2019.
4. Learned advocate for the applicant submitted that the applicant is in custody from 22.12.2017. He is in jail for a period of about 5 years and 8 months. Charge is framed on 27.10.2021. The list of witnesses provided by the prosecution indicates that

the prosecution is relying upon 46 witnesses. There is no progress in the trial. It is not clear when the trial would be over. The applicant is not the gang leader. According to prosecution, the applicant's son is the gang leader. While rejecting the previous application for bail, the Court has referred to the criminal antecedents of the applicant. LAC 55/2009 relates to Arms case and LAC 591/2011 does not exist. C.R. No.230/2012 is registered against applicant and his son. C.R. No. 259/2015 is registered against the entire family of the applicant. A case is registered under Section 307 of IPC. All other cases relate to minor offences. Most of the offences are registered with R.A.K. Marg Police Station. The applicant is willing to stay out of the jurisdiction of R.A.K. Marg Police Station.

5. Learned APP submitted that there is no change in the circumstances. The previous application was rejected on merits. The co-accused were involved in another case. They were not available for the trial. Presently, all the accused are in custody. Directions can be given to expedite the trial. Nine cases were registered against the applicant in the past. Hence, application may be rejected.

6. The FIR was registered on 22.12.2017 for offences under Section 385, 387, 120(B) read with 34 of Indian Penal Code and Section 3, 25 of the Arms Act. Provision of M.C.O.C were invoked and the offences under Sections 3(1)(ii), 3(2), and 3(4) were registered. Chargesheet is filed. One of the offences registered against the applicant is for offences under Section 307 of IPC. All the other cases relate to minor offences. The

applicant is in custody for a period of about 5 years and 8 months. Although charge was framed on 26.10.2021, prosecution could not examine any witness since then. The apex Court and this Court in several cases has granted bail to the accused on the ground of long incarceration inspite of rigors for granting bail. The prosecution is relying on 46 witnesses. Although prosecution may not propose to examine all the witnesses, it is difficult to assess how long it would take to conclude trial. Considering the factual aspects of this case and the fact that the applicant is in custody for a substantial period of time, bail can be granted to the applicant.

ORDER

(i) Bail Application is allowed.

(ii) Applicant is directed to be released on bail in connection with Crime No.55 of 2017 registered with DCB, CID, on executing PR bond in the sum of Rs.50,000/- with one or more surety in the like amount.

(iii) The Applicant shall report to DCB, CID, on every first Saturday of the month from 11.00 a.m. to 1.00 p.m. till further orders.

(iv) The Applicant shall stay out of the jurisdiction of R.A.K Police Station till further orders.

(v) The Applicant shall not tamper with the evidence.

(vi) The Applicant shall attend the trial Court on every date of hearing unless exempted by the Court.

(vii) The Applicant shall provide the contact details/address of his place of residence to the Investigating Officer.

(viii) Application stands disposed of.

PRAKASH D. NAIK, J.

MARIA SUZANA REBELLO Digitally signed by MARIA SUZANA REBELLO
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