

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

CRIMINAL BAIL APPLICATION NO. 2730 OF 2022

Nilesh Ankush Kale

..Applicant.

Versus

The State of Maharashtra

..Respondent

Mr. Nagesh Y. Chavan for Applicant.

Ms. Pallavi N. Dabholkar, A.P.P. for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 11 APRIL 2023

PC :

1. This is a second bail application filed by the same applicant. Earlier, he had approached this Court vide Criminal Bail Application No.1498 of 2020. That application was allowed to be withdrawn unconditionally and was disposed of. That order was passed on 22/02/2021. Since then the trial has not commenced and, therefore, this application is filed.

2. In the interest of justice, I have heard Shri. Nagesh Chavan, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The applicant is seeking his release on bail in connection with C.R.No.755 of 2019 registered at Kondhwa police station, Pune, which has resulted in Sessions Case No.353 of 2019. The F.I.R. was lodged on 06/10/2019 by one Mangal Doraiswamy on 06/09/2019. Her family had gone out for some work. When they returned, they saw that the latch of the door was broken and the ornaments kept in a cupboard were stolen. On this basis the F.I.R. was lodged. On the same day there was theft in the house of one Mahesh Kamble in the same area. The applicant was arrested in this connection on 26/09/2019. The investigation was over and the charge-sheet is already filed. The case is pending. The incriminating material is recovered at his instance pursuant to his statements dated 26/09/2019, 27/09/2019, 01/10/2019 and 04/10/2019, recorded U/s.27 of the Indian Evidence Act. At his instance, the weapon for breaking the house, a motorcycle, cash and the ornaments were recovered. Thus, there was sufficient material against the applicant. However, the applicant is in custody since September 2019 and more than three and half years have passed. At the same time, it cannot be ignored, as recorded in the

order passed by learned Additional Sessions Judge, Pune, on 04/01/2020 that there were similar 20 offences registered against the applicant. The same order also mentions that, according to the prosecution, the applicant was habitual offender and more than 40 crimes of house breaking were registered against him. Thus it appear that there are many antecedents against the applicant. Therefore, that is a serious consideration for rejecting the bail application. At the same time, since the applicant is in custody since September 2019, some balance will have to be struck. Learned counsel for the applicant submitted that the applicant is granted bail in other offences. Therefore, the Trial Court can be directed to commence and conclude the trial at the earliest. It appears that, there are only few witnesses to be examined in the trial, therefore, the trial should not take long time to conclude. In case the trial does not get over within the stipulated period, the applicant can be granted liberty to make an application for bail on the ground that he has spent long period in custody as an under trial prisoner.

4. Hence, the following order:

O R D E R

- i) The application is rejected.
- ii) The Trial Court is requested to commence the trial immediately and conclude it as far as possible on or before 30/06/2023.
- iii) In case, the Trial does not get over on or before 30/06/2023, the applicant is at liberty to make a fresh application for his release on bail in the present subject matter.
- iv) The Applicant, as well as, the prosecution shall co-operate with the early disposal of the trial within the stipulated period.
- v) With these observations, the application is disposed of.

(SARANG V. KOTWAL, J.)