

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2636 OF 2023

Yogeshkumar Mahipal Singh .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr.Abdul Wahab Khan for the Applicant.

Mr.Y.M.Nakhwa, A.P.P. for the State/Respondent.

PSI S. B. Sonawane, attached to Versova Police Station,
present.

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CORAM: BHARATI DANGRE, J.
DATED : 04th OCTOBER, 2023

P.C:-

1. On 08/09/2021, when on perusal of the material against the Applicant, I expressed disinclination, the Application was sought to be withdrawn. Liberty was conferred upon the Applicant to renew his request, if the charge is not framed within a period of one year or the trial does not progress.

Since the position remains the same, a second bail application was moved and on 22/12/2022, once again I scrutinized the circumstances collated against the Applicant in the charge-sheet and I was performed to arrive at the same conclusion.

2. Being aggrieved by the said order, the Applicant approached the Hon'ble Apex Court, by filing Special Leave to Appeal (Crl) No.2198 of 2023. By order dated 24/03/2023, Their Lordships of the Apex Court noticed that the Applicant is detained for about two years and four months and the prosecution proposes to examine 26 witnesses.

Though the Apex Court did not deem it fit to release the Applicant on bail, considering the nature of allegations and medical evidence on record, it was expected that the trial Court should take up the recording of the deposition of the prosecutrix at the earliest opportunity, preferably within a period of eight weeks. It was also directed that after conclusion of her deposition, the deposition of eye witnesses shall be immediately recorded and, thereafter, the Petitioner was given liberty to approach the Court for bail, afresh and in such event, the trial Court was directed to consider the application on its own merits and having regard to the depositions recorded.

In the wake of the liberty conferred, the Applicant once again moved the Sessions Court at Dindoshi, on examination of the three witnesses as directed, and the learned Judge, by referring to the order of the Hon'ble Apex Court, recorded that there is prima facie material and evidence at this stage against the Applicant, though at the stage of bail application, the evidence is not to be evaluated. However, in paragraph 5, the learned Judge specifically recorded as under :-

“5. However, the record and more particularly the material on record clearly shows that the present applicant/accused fell in love with the complainant/victim wherein the alleged serious

incident took place. Moreover, there is every possibility that the present applicant/accused may commit more serious offence with the complainant/victim if he is released on bail at such part heard stage of the matter which would certainly affect the case of the prosecution and ultimately the case of the complainant on merit.”

3. I see no reason to interfere in the said finding, as after looking into the material compiled in the charge-sheet against the Applicant, I did not deem it appropriate to secure the liberty of the Applicant. This is what even the learned Judge has opined, after he recorded the evidence of the victim and two eye witnesses. I find no flaw in the order passed by the Sessions Court.

4. However, it is to be noted that in terms of the directions by the Hon'ble Apex Court, three witnesses are examined; the third witness was examined on 21/06/2023, whereas the fourth witness on 28/07/2023. But, thereafter the trial is stalled, as though the prosecution intends to examine seven more witnesses, not a single witness has been examined.

The learned counsel for the Applicant has placed before me the roznama in the Sessions Case and my attention is invited to the order dated 18/07/2023, when the Applicant requested for conducting the trial on day-to-day basis. The learned Judge has recorded that there are several other time-bound matters, which are required to be proceeded and, there are matters which are as old as 5 to 10 years and they are also required to be proceeded.

There cannot be any quibble over the scenario with which the learned Judge is confronted, but taking view from the order of the Apex Court, though the trial may not be made time-bound or fixed on day-to-day basis, it is expected that the learned Judge shall examine the witnesses, one in a week, by issuing witness summons in advance and make endeavor to conclude the trial expeditiously.

I do not intend to comment anything more, with a hope and trust that the learned Judge shall give consideration to the spirit of the order of the Hon'ble Apex Court and make every attempt to ensure the expeditious conclusion of the trial.

5. I must reiterate that, considering the seriousness of the offence, I do not deem it appropriate to release the Applicant on bail, even though the application is filed for the third time.

The Application is dismissed.

(SMT. BHARATI DANGRE, J.)