

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 4199 OF 2021

Kapildeo Chandrabali Dube ... Applicant

Versus

The State of Maharashtra ... Respondent

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Ms. Mallika Sharma instructed by Ms. Anjali Patil for the Applicant.
Ms. Veera Shinde, APP for the State.

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CORAM : N.R. BORKAR, J.

DATED : 18 JANUARY 2023

P.C. :-

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. The applicant came to be arrested in Crime No. 25 of 2017 registered at Rajgad Police Station, for the offences punishable under Sections 395, 397, 342, 412, 201 of Indian Penal Code, Sections 4 r/w. 25 of the Arms Act and Sections 3(1)(ii), 3(4) of the Maharashtra Control of Organized Crime Act, 1999.

3. I have heard the learned Counsel for the applicant and the learned APP for the State.

4. The bail is sought on the ground of prolong incarceration as an undertrial.

5. This Court on 4 August 2021 in Criminal Bail Application No. 36 of 2021 filed by the present applicant passed the following order :

“1. The Applicant is arrested in C.R. invoking offences under Sections 395, 397, 342, 412 and 201 of the Indian Penal Code read with Sections 4 and 25 of the Arms Act, on 13/03/2017. The arrest is effected in relation to an incident, which is alleged to have taken place on 03/03/2017. It is the very same offence in which the provisions of the MCOCA have been invoked.

2. On perusal of the material compiled in the charge-sheet, I expressed my disinclination to release the Applicant on bail. However, at the same time, it can be seen that the Applicant continues to remain incarcerated from the date of his arrest and, down the line, for more than four years, even the charge is not framed. The Applicant cannot be kept incarcerated indefinitely pending the trial even though the offence with which he is charged is a serious one.

3. In the backdrop of the aforesaid circumstances, a request is made to the trial court to frame the charge within four months from today. If the charge is not framed within the aforesaid period, the Applicant will be at liberty to approach this court and renew his application for bail.

4. The Application is disposed of as withdrawn.”

6. The learned Counsel for the applicant submits that, in spite of the above said order, the trial is still at the stage of framing of charge. It is submitted that the applicant is in jail for about six years.

7. On the other hand, the learned APP submits that, the

applicant is a gang leader. It is further submitted that the applicant is not permanent resident of State of Maharashtra. It is submitted that considering the overall circumstances, the applicant may not be released on bail.

8. The learned APP has however not disputed that in spite of the order of this Court, the trial is still at the stage of framing of charge. It is thus apparent that the trial is not likely to conclude in near future. The applicant is in jail for about six years. Considering the overall facts and circumstances, I am constrained to release the applicant on bail. Hence, the following order is passed :

- (i) Application is allowed.
- (ii) The applicant - Kapildeo Chandrabali Dube be released on bail in Crime No. 25 of 2017 registered at Rajgad Police Station, for the offences punishable under Sections 395, 397, 342, 412, 201 of Indian Penal Code, Sections 4 r/w. 25 of the Arms Act and Sections 3(1)(ii), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount.
- (iii) The applicant shall attend the concerned police station every week i.e. on Monday between 11.00 a.m. to 2.00 p.m. till conclusion of trial.
- (iv) The applicant shall not leave State of Maharashtra without prior permission of the trial Court.

(v) The prosecution is at liberty to file an application for cancellation of bail, if any of the above conditions are breached or applicant commits any other offence.

(N.R. BORKAR, J.)

KANCHAN
PRASHANT
DHURI

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by KANCHAN
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2023.03.06
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