

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

CRIMINAL BAIL APPLICATION NO.2974 OF 2022

Mahesh Ramchandra Bhoir @ MayaApplicant
Versus
The State of Maharashtra Respondent

Mr. Sunil R. Pandey, Advocate for the Applicant.
Smt. M.R. Tidke, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 24th FEBRUARY, 2023

P.C. :

1. This is the second bail application by the same applicant for his release on bail in connection with C.R. No.256/2019 registered with Mahim police station, Mumbai.

This second application is filed on the ground that after the previous order dated 15.12.2020 passed in Criminal Bail Application (Stamp) No.2052/2020 rejecting his bail application, three more co-accused are granted bail by different orders.

2. I have heard learned counsel for the applicant

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and learned APP for the State.

3. Learned counsel for the applicant relied on the order dated 14.9.2021 passed by this Court (Coram: Bharati Dangre, J.) in Criminal Bail Application No.576/2021 thereby granting bail to Anil More.

4. He also relied on the order dated 12.4.2022, which was a common order in Bail Application Nos.842/2020 & 1907/2021. By that order, two other co-accused, namely, Samir Mhatre & Kalpesh Mali were granted bail.

5. Learned counsel relied on these orders to claim parity. He further submitted that there is no progress in the trial. Therefore, the applicant deserve to be released on bail.

6. Learned APP opposed this prayer. She submitted that the case of the applicant stands on different footing than the other accused. The applicant was the mastermind behind the incident which is recorded in the previous order rejecting his bail application. She emphasized that there is a

recovery of Rs.11 Lakhs and seven ornaments from him. These ornaments matched with the description in the FIR. She submitted that no case for grant of bail is made out.

7. I have considered these submissions. On the previous occasion when the bail application of the applicant was rejected on 15.12.2020, following observations were made :

“6. I have considered these submissions. The case of the accused, who were released on bail, stands on different footing that of the present Applicant. Though he was identified in the identification parade, accused Suhas Kanade had not got down from the Wagon R car. FIR gave description of three persons. Those three persons were identified in the same parade. There was no recovery at the instance of Suhas Kanade.

7. As far as the present Applicant is concerned, as rightly pointed out by the learned APP that there is a serious circumstance of recovery of Rs.11,00,000/-. The CDR record matched with the story in the FIR. This is another circumstance against him. The location of the mobile phone of the

applicant was shown to be in the area from where the first informant was abducted and to places where he was taken. He was constantly in touch with the actual abductors, who were travelling in the Innova Car. This shows that, he was the mastermind behind this incident. The punishment provided for the offence punishable under section 364A is death penalty. The Applicant, therefore, does not deserve to be released on bail. The nature of offence is quite serious.

8. Hence, no case is made out for grant of bail. Bail application is rejected.”

8. As far as the co-accused Anil More is concerned, there was recovery of cash amount of Rs.75,000/- and it was observed that *prima facie* it could not be an incriminating circumstance. There was no reference to the role played by the present applicant and the evidence against him in that order granting bail to the co-accused Anil More.

9. As far as the order dated 12.4.2022 is concerned whereby Samir Mhatre & Kalpesh Mali were granted bail, it was observed that nature of evidence in support of

accusations against them does not justify further detention as far as they were concerned. It was also observed that the purported recovery at the instance of the co-accused Kalpesh Mhatre was in respect of the money which was already handed over to the police by his wife. Therefore, it was observed that said recovery was *prima facie* doubtful. The complainant had not attributed any specific roles to those co-accused. On these grounds, the bail was granted to these co-accused.

10. However, the case of the applicant is totally different. There is huge recovery of Rs.11 Lakhs which is closer to the amount which was robbed from the first informant. Besides that there is recovery of seven ornaments which matched with the description given in the FIR. Thus, there is *prima faice* nexus between the applicant with the crime. The offence is quite serious. As mentioned earlier, the offence is punishable with death penalty. Therefore, I am not inclined to grant bail to the applicant. No case on parity is made out. However, it must be noted that the

applicant is in custody since 2.8.2019. Therefore, it is necessary that the trial is taken up expeditiously and is concluded expeditiously.

11. Hence, the following order :

:: O R D E R ::

- i. The bail application is rejected.
- ii. The trial Court is requested to take up this trial on urgent basis and conclude it as far as possible within a period of eight months from today. The accused and the prosecution shall cooperate with the expeditious disposal of the trial. The learned trial Judge shall make all endeavours to complete the trial within that time frame. The applicant be produced on every date before the trial Court when the trial is fixed for hearing.
- iii. With these directions, the application is disposed of.

(SARANG V. KOTWAL, J.)