

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 4508 OF 2021

Haider Ali Abdul Jabber Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Prashant G. Pandey a/w Tushar Halwai, Aiqan Memon, Dinesh Jadhvani, Ashray Dave i/b W3LEGAL LLP for the Applicant.

Mr. K.V.Saste, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 25th JANUARY, 2023

P.C. :

1. Heard Learned Counsel for the applicant and the Learned A.P.P for the State.

2 This is the third bail application preferred by the applicant seeking his enlargement on bail in connection with C.R. No. 43 of 2017 registered with the Aarey Police Station, Mumbai, for the alleged offences punishable under Sections 302, 114, 120B r/w 34 of the

Indian Penal Code.

3. The first bail application of the applicant was rejected on merits vide order dated 19th September, 2019. The second bail application preferred by the applicant was withdrawn as the Court was not inclined to enlarge the applicant on bail. However, since the applicant was in custody for about four years, the trial of the applicant was expedited and was made time-bound. The learned Judge was to conclude the case, as expeditiously as possible and in any event, within nine months from the date of receipt of this order. The said order is dated 22nd March, 2021. It is not in dispute that the said order dated 22nd March, 2021 was challenged by the applicant before the Apex Court and the Apex Court vide order dated 21st September, 2021, dismissed the SLP filed by the applicant. However, whilst dismissing the SLP, it was observed that if the trial did not conclude within the time expected by the High Court, it would be open for the applicant to renew his prayer for bail. Pursuant to the liberty granted by the Apex Court, the aforesaid application has been filed.

4. Admittedly, charge has not been framed till date. There are eleven accused in the said case. Out of which, 10 accused have been released on bail. It appears that the applicant is the only accused who is in custody. This Court (Coram : Prakash D. Naik, J.), after the applicant's first bail application was rejected, granted bail to co-accused – Vyankatesh Armugam Chelliya vide order dated 18th December, 2020. This Court (Coram : Prakash D. Naik, J.) whilst granting bail to co-accused, observed the discrepancies with respect to the role assigned to the applicant by the alleged witnesses and considering that the recovery of clothes was after six days of his arrest and considering that other two accused were granted bail, granted bail to the said accused. Admittedly, there are no antecedents as against the applicant. No doubt, there is extra judicial confession made by the applicant and recovery of sickle and blood stained clothes at the instance of the applicant, however the said recovery was effected after six days of the applicant's arrest. Co-accused – Vyankatesh who has been enlarged on bail, was also one of the assailants, who has been granted bail vide order dated 18th December, 2020. The applicant is

in custody since 7th April, 2017 and till today, there is no prospect of the trial commencing in the immediate near future, despite the trial of the applicant having been expedited.

5. Considering the aforesaid, the application is allowed and the applicant is enlarged on bail on the following terms and conditions:

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

(ii) The applicant shall attend the concerned Police Station on the first Saturday of every month between 11:00 a.m. to 01:00 p.m from the date of his release, except if the date in the trial Court falls on a Saturday, till the conclusion of the trial;

(iii) The applicant shall not leave the jurisdiction of the Mumbai City till the trial complete, without the permission of the trial Court;

(iv) The applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(v) The applicant to cooperate with the conduct of the trial and attend all the dates before the trial Court, unless exempted;

(vi) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

(vii) The applicant shall file an undertaking with regard to clauses (ii) to (vi) in the trial Court, within two weeks of his release;

(viii) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6. The application is allowed in the aforesaid terms and is accordingly disposed of.

7. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.