

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

BAIL APPLICATION NO.377 OF 2023

Mariyaraaj @ Maria Devidas Harijan

...Applicant

Versus

The Senior Inspector of Police and
Anr.

...Respondents

...

Mr. Rizwan Merchant with Ms Vinita Dandekar i/b. Mr. Rizwan Merchant
and Associates for the Applicant.

Mr. R.M. Pethe, APP for the Respondent -State.

Mr. Vijay Mohan Hatiskar, Sr. PI, Culaba Police Station, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 2nd AUGUST, 2023.

P.C.:-

1. This is an application under Section 439 of the Cr.PC. filed by the aforesaid Applicant, who is facing trial in Sessions Case No.371 of 2016 pending on the file of learned Additional Sessions Judge, Borivali Division, Dindoshi, seeking enlargement on bail. The aforesaid case arises from C.R. No.288 of 2016 registered with Malad Police station, Mumbai, for the offences punishable under Sections 120-B, 143, 144, 145, 147, 148, 201 and 302 r/w. 149 of the IPC and Sections 37(1) r/w 135 of the Maharashtra Police Act.

2. The Applicant is charged for committing murder of one

Jayraman Nadar. The previous bail application filed by the Applicant was dismissed on merits. Learned counsel for the Applicant states that the Applicant was arrested on 14/10/2016 and that he is in custody since last 7 years. He states that the charge was framed on 19/01/2023 and till date only one witness has been examined. A perusal of the Roznama, which placed before me prima facie reveals that the case has been adjourned for non-availability of the witnesses. It is stated that total 136 witnesses are cited. Learned APP states that out of total 136 witnesses prosecution will be examining 40 witnesses.

3. The prosecution has examined only one witness in last 7 years. Considering the fact that the prosecution intends examining 40 witnesses, it is evident that there is no possibility of the trial concluding within a reasonable time. The Apex Court has time and again emphasized that speedy trial is an integral and essential part of the fundamental right to life and liberty enshrined in Articles 21 of the Constitution of India. It therefore follows that prolonged custody without reasonable expeditious trial is violative of Article 21 of the Constitution of India. Hence, the Applicant is entitled for bail.

4. Under the circumstances, the application is allowed on the following terms and conditions:-

- (i) The Applicant, who is facing trial in Sessions Case No.371 of 2016 pending on the file of learned Additional Sessions Judge, Borivali Division, Dindoshi, arising from C.R. No.288 of 2016 registered with Malad Police station, Mumbai, is ordered to be released on bail on executing PR bonds in the sum of Rs.50,000/- with one or two solvent local sureties to the like amount;
- (ii) The Applicant shall appear before the Trial Court on each and every date unless exempted by the Trial Court;
- (iii) The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner;
- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

5. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)