

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO. 16/2023

Rajendra alias Bandu S/o. Akaramji
Ramekar, age 63 yrs., Occ. Retired.
R/o. Jawahar Nagar, near Rekha Colony,
Amravati.

PETITIONER

VERSUS

1. The State of Maharashtra,
through the Police Station Officer,
Police Station Dattapur,
Tq. Dhamangaon (Railway),
Dist. Amravati.
2. Santosh S/o. Ramdas Palaskar,
Age adult, Occ. Not known,
R/o. Plot No.1, Swavalambi Nagar,
Amravati,
3. Arvind S/o. Sukdeorao Dandge,
Age Adult, Occ. Not Known,
R/o. Old Bypass Road, Yashoda
Nagar No.1, Amravati.

(Respondent Nos. 2 and 3 are deleted
as per Court's order dated 06.02.2023.)

RESPONDENTS

Mr. R. D. Bhuiabhar, Advocate for petitioner.
Mrs. M. Deshmukh, Additional Public Prosecutor for respondent/State.

CORAM

: VINAY JOSHI AND
VALMIKI SA MENEZES JJ.

DATE

: 06.02.2023

ORAL JUDGMENT (PER VINAY JOSHI, J.)

The learned counsel appearing for petitioner seeks to delete the respondent Nos. 2 and 3. Considering the limited prayer, leave is granted as prayed for.

2. Amendment be carried out forthwith.

3. Rule. Rule is made returnable forthwith. Heard finally by consent of both counsel.

4. The petitioner is arrayed as accused No. 1 in Regular Criminal Case No. 108/2013 pending on the file of Judicial Magistrate First Class, Dhamangaon (Railway), Amravati. The petitioner is seeking limited relief to direct the Trial Court to decide case expeditiously as the same is pending for nearly 10 years.

5. Considering the nature of relief claim, we have called report of the Presiding Officer as well as copy of entire Roznama. Though charge-sheet has been filed in the year 2013, till the year 2019, the trial remained pending for various applications filed by petitioner. Thereafter, co-accused (No.3) has applied for discharge which was rejected. It reveals that during the period of last near about six months other co-accused did not remain present which caused the Magistrate to keep the matter pending for no reason. Particularly, accused No. 2 did not appear in the Court, therefore non-bailable warrant and notice to the surety were issued, but still they are awaited.

6. By and large, for the period for more than last six months, the matter is stalled due to absence of accused No. 2. Since the case is ten years old, naturally the petitioner has right to seek a speedy trial.

7. In the above circumstances, the learned Magistrate is directed to secure presence of co-accused by all possible modes available under the law. If either of the accused including petitioner remains non-cooperative, the Magistrate may in his discretion take appropriate steps to secure their presence. If the Magistrate comes to the conclusion that either of the accused is untraceable despite exhausting all available modes then he may separate the trial regarding other accused. The petition is disposed of accordingly with further direction to expedite the trial.

8. Inform the concerned Magistrate accordingly.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)

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