

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

CRIMINAL APPLICATION (BA) NO.91 OF 2023

Shiva s/o Raju Madavi

Vs.

State of Maharashtra, Through PSO, Police Station Wardha

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. K. Sorde, Advocate for applicant.

Mr. M. J. Khan, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 06/06/2023

1. The present application is filed by the applicant/accused for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.1806/2019 registered with Police Station, Wardha for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. The applicant is arrested on 28.10.2019 and since then he is in jail. It is submitted by the learned Counsel for the applicant that charge-sheet is filed on 15.01.2020 and charge is framed on 15.02.2022, but there is no progress in the trial. The applicant who is in jail since 2019 due to the default on the part of the investigating agency, as investigating agency has not produced the muddemal property before the Court.

3. The present application is filed for grant of bail on the ground that trial is delayed without any sufficient reasons and applicant/accused is suffering due to the same. The further ground raised by the applicant is that though investigation is completed and applicant/accused is in custody since more than three years, there is no other criminal antecedents against the present applicant and no fruitful purpose will be served by keeping the applicant behind the bar.

4. After hearing the learned counsel for the applicant for some time, it reveals that direct evidence is against the present applicant to connect him with the alleged offence. The applicant/accused has not made out the case for grant of bail. However, the submission by the learned counsel for the applicant that trial is not yet initiated is to be taken into consideration, when the applicant/accused is in jail since three years. The learned Counsel for the applicant seeks permission to withdraw the application with liberty to file fresh application on the ground that if trial is not initiated within six months, he shall be permitted to file fresh application for grant of bail.

5. The liberty is granted to the applicant/accused to file fresh application in the above change in circumstances.

6. The investigating officer shall pursue the matter and take efforts to produce the muddemal property within four weeks.

7. The trial Court shall proceed with the trial as soon as the property is produced before the Court.

8. With this observations, the application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate