



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

17 BAIL APPLICATION NO. 496 OF 2024

SHIVKUMAR ZATINGRAO KAMBLE

VERSUS

THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. S. S. Jadhav h/f Mr. Qureshi Aqif
Hameed.

APP for Respondent/s-State : Mr. AAA Khan.

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CORAM : S. G. MEHARE, J.

DATE : 23.09.2024

PER COURT :-

1. Heard the learned counsel for the applicant and learned APP for the respondent-State.
2. The applicant seeks bail in Crime No.34 of 2017, registered with Udgir City Police Station, District Latur, for the offences punishable under Sections 302, 323, 120-B, 364 read with Section 34 of the IPC.
3. The applicant was granted bail. However, on complaint of violating the bail conditions, his bail was cancelled. Thereafter, he was under trial prisoner. When he was under trial prisoner, the SOP was issued during Covid-2019 pandemic and he was released on bail. However, he did not surrender till the notice was issued upon him on 18.01.2024.

4. Learned counsel for the applicant submits that the applicant was under impression that he has been granted bail so he did not to surrender. While on the bail during Covid-2019 Pandemic, he attended the trial regularly. The trial was reached to the fag end. One year was spent without any progress as the Court was vacant. After many dates, his statement under Section 313 of the Cr.PC. was recorded. The case was closed for argument on 06.06.2024. Thereafter, the accused was not produced and on request of both learned counsels, the matter was adjourned. On 19.06.2024, the complainant filed an application, dated 03.06.2024 marked at Exh.248. It was an application addressed to the Hon'ble Chief Justice, Hon'ble Guardian Judge of the learned Principal District and Sessions Court and to the Trial Court. The Trial Court without going through the contents of the application called the say of the accused. Thereafter, the matter was adjourned only to decide application Exh.248. The reply on Exh.248 was filed on 02.07.2024. Again the matter was adjourned for say of accused Nos.7 and 8. The matter was adjourned on 09.07.2024, 23.07.2024 and on 06.08.2024. Again the matter was adjourned for argument on Exh.-. On 20.08.2024, the position was same. Learned counsel for the

applicant submits that he has instructions that the Presiding Officer going to be retired in near future.

5. The contents of the application Exh.248 does not disclose the allegation. It is simply a request to decide the matter considering all aspects. The prosecution has filed reply below Exh.251 contending that one main witness Savita and the applicant had compromised their other matters. Hence, she has been turned hostile in this case. Considering the submissions of the complainant, the evidence of the prosecution was closed. Prosecution is taking back evidence close pursis and ready to examined the remaining witnesses. This position was the same on 02.07.2024. It is surprising that the Presiding Officer did not take the matters seriously and went on adjourning the trial. In fact, the application of the complainant Exh.248 was to be disposed of immediately, as there were no specific prayers. It was not an application to call for the say. Be that as it may, it seems that this way or the otherwise the matter is protracted. For a long time, the matter is kept pending which was reached to the fag end. If the Presiding Officer is going to retire in near future, again there may be an apprehension of remaining the Court vacant for uncertain period. No one should take disadvantage of such a

situation. In the circumstances, the Court is of the view that the applicant deserves bail. Hence, the following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **SHIVKUMAR ZATINGRAO KAMBLE** be released on bail on furnishing PB. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, on the following conditions :
 - (a) The applicant should not tamper with the prosecution witnesses.
 - (b) He should attend the trial on each and every date.
 - (c) The present Presiding Officer is directed to decide the case finally on or before 30.09.2024 presuming that Exh.248 did not restrain him proceeding ahead. The Presiding Officer should not stall the trial only on application of transfer, if any, unless the competent Court stalls the trial.

- (d) Registrar (Judicial) of the High Court Bench at Aurangabad is requested to send the copy of this order to learned Sessions Court and the Trial Court and communicate them orally too.

(S. G. MEHARE, J.)

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vmk/-