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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 540 OF 2024

**SUBHASH MOHAN PAWAR
VERSUS
THE STATE OF MAHARASHTRA**

...

Mr. Shailendra S. Gangakhedkar, Advocate for applicant,
Mr. A.S. Shinde, APP for respondent.

CORAM : S.G. CHAPALGAONKAR, J.

**RESERVED ON : 20th JUNE, 2024.
PRONOUNCED ON : 28th JUNE, 2024.**

ORDER :-

1. The applicant/accused seeks regular bail in connection with Crime No. 176 of 2019 (In Special Case No. 95 of 2020) registered with Itwara Police Station, District Nanded for the offences punishable under Sections 307, 120-B, 166, 166A, 384, 386 of IPC and under Section 3/25 and 27 of the Arms Act and under Section 3(i)(ii), 3(2), 3(4) and 24 of the MCOC Act and under Section 5 of the Indian Explosive Substances Act, 1908.

2. This is the second bail application by the applicant. The previous bail application No. 1611 of 2023 was withdrawn on statement made by learned APP that trial is at advanced stage and likely to be

concluded within a period of 3 months. Liberty was granted in favour of the applicant to move afresh for grant of bail in case trial is prolonged beyond four months.

3. Mr. Gangakhedkar, learned advocate for the applicant submits that inspite of specific statement made by the prosecution, the trial could not progress during the period of last seven months. He would submit that when earlier bail application was placed for consideration before this Court, almost 34 witnesses were examined and during last six months, hardly 5 witnesses have been examined. According to prosecution, as many as 116 witnesses are cited. He would further submit that the applicant is behind bars since November, 2019. Mr. Gangakhedkar would further submit that the present offence is alleged to have been committed on 17.8.2019. The applicant was behind bars in other crime and detained in District Raigad from 25.7.2019. No recovery is made from the applicant in connection with the crime. The charge sheet is filed on 20.2.2022. Trial is likely to be delayed for indefinite period considering the snail speed. Hence, the applicant deserves to be released on bail.

4. Per contra, learned APP would strongly oppose the prayer. He would submit that, by this time, as many as 39 witnesses have been examined in the trial. The applicant's role can be inferred from the evidence on record. The learned APP has placed on record copy of the written instructions received from the Special Prosecutor in charge of trial at Nanded, confirming that 9 important witnesses are yet to be examined, who are mostly officers from various departments of State and Doctors from the Hospitals. He would, therefore, submit that the trial

has reached to a crucial stage. The applicant has criminal antecedents and serious offences have been previously registered against him.

5. Having considered the submissions advanced, it can be observed that this is successive bail application of the applicant. On the basis of statement made on behalf of the prosecution, his earlier application, i.e. bail application No. 1611 of 2023 was disposed of as withdrawn with liberty to approach after four months in case the trial is not concluded.

6. The communication dated 19.6.2024 received from the Special Prosecutor depict that 39 witnesses have already been examined and prosecution proposes to examine, nine more witnesses who are essential. Learned APP on instructions submits that the trial court as well as the prosecution is making endeavour to conclude the trial at the earliest. Pertinently, the material on record, prima facie, pin points association of the applicant with the absconding accused Harvinder Singh @ Rinda. In this background, no case is made out to re-consider the merits of the matter and grant him bail. Hence, the application for bail stands rejected. However, Special/Sessions Court shall endeavour to conclude trial as early as possible, preferably within six months from date of this order. The parties shall cooperate and avoid unnecessary adjournments.

[S.G. CHAPALGAONKAR]
JUDGE

grt/-