



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

930 BAIL APPLICATION NO. 1350 OF 2024

SHAIKH KHAJA SHAIKH SHABBIER

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Mr. Shejwal Arun S.

APP for Respondent/s-State : Mrs. M. N. Ghanekar.

Advocate for Respondent No.2 : Mr. Ram Shinde (Appointed
Through Legal Aid).

...

CORAM : S. G. MEHARE, J.

DATE : 29.08.2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the respondent/State and the learned counsel for the victim.

2. It is an interesting case. The matter could not be heard since the muddemal was not deposited. Many times, this Court has directed the Trial Court to examine the witnesses those have no concern with the seized muddemal properties. But this seems not happily done. After the order was passed, the police Department woke up and the muddemal property which was received on 26.07.2024 from the Chemical Analysis Laboratory, deposited the muddemal on 21.08.2024. On

28.08.2024, the matter was listed for examining the witnesses. The copy of the roznama placed on record shows that on that day, the accused was produced before the Court from Jail. However, learned counsel for the accused was absent when called. On that day, two witnesses were present. The evidence of the victim was recorded. The applicant had applied for adjournment. However, it was rejected. Hence, he declined to cross-examine the witness. One witness was made bond over for next date i.e. on 29.08.2024 i.e. today. The lawyer appearing before this Court is representing the accused in the Trial Court. Instead of appearing before the Trial Court, he is pressing here for bail. He alleged against the Presiding Officer that the Presiding Officer has hastily recorded the evidence of the witnesses. At the one hand, he is complaining before this Court that his trial is not commenced. Hence, bail may be granted. When the Court passed the order, the matter proceeded and the trial actually commenced. He also made the allegations against the Presiding Officer that he was scolding the accused for why the accused applied before this Court for bail. It is not the case that the counsel had a new case. The charge sheet was filed long back and it was also supplied to the accused long back. The learned counsel Mr. Arun Shejwal has filed this bail application on 26.07.2024. So,

it must be presumed that he knew the facts of the case. He had no reason to seek the adjournment to cross-examine the witnesses. When the Court rejected the application, he refused to cross-examine the witness. Now, when the Court recorded the above findings, the learned counsel for the applicant has changed his version and saying that yesterday he was not feeling well. He stated in his adjournment application that he was not feeling well. Yesterday, he had a viral but today he is okay and appearing before the Court making the complaints against the Judicial Officer. He submits that when the adjournment application was filed, his junior appeared before the Trial Court. However, he did not make the statement that his junior had instructed him about what had happened in the Court. Now, he says that his junior had instructed him and narrated the story that happened before the Court. Now, the learned counsel for the applicant states that he has given no objection to another lawyer to conduct the trial. Now, he states that he has instructions from that lawyer that the trial is going on, the witnesses are examined in the Trial Court and he is taking the appropriate steps.

3. Considering the above facts, it seems that the applicant was barely interested in bail and not interested in conducting

the trial. These are the old tactics known to all that when the Court does not grant adjournment, the lawyers withdraw their powers or the litigant changes the lawyer, and a new lawyer appears before the Trial Court and seeks time on the ground that he has just filed his Vakalatnama. Though, these tactics are played every time the attempt was made to blame the system only for relief of bail.

4. Considering the facts of the case and commencement of the trial, this Court is of the view that this is not a fit case to grant the bail. Hence, the bail application stands dismissed.

5. **The Secretary, High Court Legal Services, Sub-Committee, Aurangabad do pay the legal fees to advocate Mr. Shinde, as per the schedule.**

(S. G. MEHARE, J.)

...

vmk/-