



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

30 BAIL APPLICATION NO. 1518 OF 2024

JAGDISHSING HARISING BAVARI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Patil Jitendra Vijay

APP for Respondent/State : Mr.S.B. Pulkundwar

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CORAM : S. G. MEHARE, J.

DATE : 14th October, 2024.

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant seeks bail on the ground of long incarceration without progress in the trial in Crime No.769 of 2022 registered with Police Station, Jalgaon, for the offences punishable under sections 143, 147, 148, 149, 302, 307, 326 of the Indian Penal Code and sections 3(I)(II), 3(2), 3(4) of MCOC Act.
3. This matter was listed for hearing on 06.09.2024. The learned APP sought time to make research about another view of the Hon'ble Supreme Court against the view taken in the case of *Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another, Criminal Appeal No.2787 of 2024 (Arising out of SLP (Cri) No.3809 of 2004)*, dated July 3, 2024 and *Prem Prakash Vs. Union of India through the Directorate of Enforcement, Criminal Appeal of 2024 (@ SLP(Crl.) No.5416/2024)*

dated 28.08.2024. In this case, the Hon'ble Supreme Court enlarged the accused on bail on the ground of no progress in the trial and indefinite incarceration.

4. The learned APP made a statement that he did not find another view against the view expressed by the Hon'ble Supreme Court in above two case laws. However, he would argue that the case is posted for framing the charges on 17th October, 2024. He trying to convince the Court that once the charge is framed, it could not be said that there is no progress in the trial. He also argued that the different applications were filed by the other co-accused for bail. However, the charges could not be framed. He could not satisfy the Court that filing of different applications materially affect the stage of framing charges, when the matter is ready by all means. Non-production of the accused before the Court for framing the charges, is also not a ground to believe that there was no delay in the trial. Technical support has been provided to all Courts, but it seems that it is not accepted.

5. This Court bound by the view taken by the Hon'ble Supreme Court in the above case laws. The applicant is incarcerated for two years. There is no progress in the trial. The prosecution has cited around 61 witnesses. It will take a long time. Hence, the Court is inclined to grant bail in view of the judgments of the Hon'ble Supreme Court (supra). Hence, the following order:

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **JAGDISHSING HARISING BAVARI** be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) with one solvent surety of like amount, in the above crime, for the aforementioned offences, 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 and co-operate with the Trial Court to conclude the trial within reasonable time.

[S. G. MEHARE, J.]