



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

BAIL APPLICATION NO.2182 OF 2024

Balasaheb S/o Dashrath Parbat,
Age: 49 yrs., Occu. Agri.,
R/o. Kurudwadi,
Tq. Mhada, Dist. Solapur

..Applicant

Versus

The State of Maharashtra
Through Police Station Incharge
Naldurg Police Station
Tq. Tuljapur, Dist. Osmanabad.

..Respondent

...

Mr. A. S. More, Advocate for the Applicant.
Mr. V. S. Badakh, APP for Respondent-State.

...

CORAM : S. G. CHAPALGAONKAR, J.

Reserved On : 13th DECEMBER 2024.

Pronounced On : 18th DECEMBER 2024.

ORDER:-

1. This is successive bail application of the applicant. Previously, bail applications of the applicant were rejected by the Sessions Court on 28.07.2020, 11.10.2020, 18.06.2022, 05.10.2023, 27.10.2023 and 09.01.2024. This Court rejected previous Bail Application No.2050/2023 vide order dated 11.12.2023. However, while rejecting said application, Special Court was directed to make endeavour to conclude trial within a period of nine months and liberty was granted to the applicant to move afresh before Special Court for grant of bail, in case trial could not be concluded within stipulated period. In spite of aforesaid directions from this Court, trial could not be concluded within a period of nine months. Hence, applicant moved Sessions Court for grant of bail vide application below Exhibit-303 and same has been rejected vide order dated 24.10.2024. Hence, this application.

2. Mr. More, learned Advocate appearing for the applicant would submit that applicant has been arrested on 18.06.2020. The applicant has already suffered incarceration for more than four and half years. The trial is at the nascent stage. Although this Court vide order dated 11.12.2023 directed Special Court to expedite trial, same is not concluded till this date. Mr. More further invites the attention of this Court to the order dated 24.10.2024, passed below Exhibit-303 in Special Case No. 79/2020, in which the learned Judge, in paragraph no.6, observed that the prosecution is permitted to re-examine the witnesses already examined, alongwith the liberty to examine fresh witnesses, subject to the cross-examination of these witnesses on behalf of the accused persons. According to Mr. More now fresh exercise has been undertaken and it is likely to take indefinite time to conclude trial. Since applicant has already suffered incarceration for more than four and half year, he cannot be made to suffer because of faults of the prosecution to conclude the trial within reasonable period.

3. Per contra, Mr. Badakh, learned APP appearing for the respondent-State would submit that vide order dated 11.12.2023 passed in Bail Application No.2050/2023 this Court directed Special Court to expedite the trial. However, by subsequent order dated 11.10.2024 this Court extended the said period by four months, which would expire in February 2025. Therefore, applicant has no cause of action to move this application. The applicant had previously sought bail on a similar ground of delay in trial. After considering this ground, the bail application was rejected, albeit with a direction to conclude the trial within nine months. This period has now been further extended by four months. The learned APP would submit that applicant was found in possession of huge quantity of contraband/narcotic substance. The evidence recorded during the trial, *prima facie*, depicts his

complicity in the offence. The release of the applicant at this stage may hamper smooth trial. He would, therefore, urge that application be rejected.

4. Having considered submissions advanced, it is apparent that prayer of the applicant for grant of bail has been rejected previously after considering merit of case. Similarly, his last application has been rejected by this Court on 11.12.2023. It is true that the trial has been prolonged, and to a certain extent, the prosecution can be blamed for this delay. However, the fact remains that the Sessions Court, having found glaring defects in the conduct of the trial, directed the re-examination of witnesses under its order dated 20.11.2023. In pursuance of the said order, now re-examination of the witnesses is in progress. It is not the case where trial is completely halted. The applicant was found in possession of huge quantity of contraband, which is serious offence punishable under Section 20 of the Narcotic Drugs And Psychotropic Substances Act, 1985 for 20 years rigorous imprisonment. Although this Court is not fettered in granting bail in cases of indefinite incarceration, given the facts of the present case, it is not appropriate to release the applicant at this stage, particularly since the period fixed by this Court to conclude the trial has been extended until February 2025.

5. Mr. More submits that co-accused persons are already enlarged on bail. However, role of the applicant is not comparable with the co-accused. Hence, there is no merit in the application.

6. Consequently, Bail Application stands rejected.

(S. G. CHAPALGAONKAR)
JUDGE