

Sayali Upasani

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 25 OF 2024

Prasad Santosh Chawale and Another ...Applicants

Vs.

The State of Maharashtra and Others ...Respondents

**SAYALI
DEEPAK
UPASANI**

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SAYALI DEEPAK
UPASANI

Date: 2024.04.02
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Mr. Rajendra S. Bidkar, for Applicants.

Mr. S. R. Agarkar, APP for State/Respondent.

Mr. R. P. Shinde, ASI, CID, Bhiwandi, Thane, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 1st APRIL, 2024

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) An application for default bail was filed before the learned Special Judge on the ground that the charge-sheet was not lodged within the stipulated period.
- 3) By an order dated 13th December, 2023, the application came to be rejected on the premise that the Bail Application was filed on 24th November, 2023 and before that on 20th November, 2023 itself, charge-sheet was lodged leading to registration of Special Case No. 562 of 2023. It seems, the said finding was

recorded on the basis of report of the Superintendent that charge-sheet was filed on 20th November, 2023 (pg.13 of the application).

4) Mr. Bidkar, the learned Counsel for the applicants submitted that the charge-sheet was not at all filed till the applicants had preferred application for default bail. Attention of the Court was invited to the certified copy of the Institution Register, which according to him, indicates that the charge-sheet was not filed till 28th November, 2023.

5) It is submitted that the issue was raised before the learned Special Judge by filing a pursis (pg. no. 9 of the application). However, the same was not dealt with by the learned Special Judge.

6) Prima facie, the Court will proceed on the premise that the endorsement made by the Court Official is correct and made in the regular and official course of business. Since the applicants dispute this position, the trial Court would be better equipped to deal with the aspect of the correctness of the endorsement made by the Superintendent.

7) As the Court expressed disinclination to entertain the application on the aforesaid premise, Mr. Bidkar, seeks leave to

withdraw the application with liberty to file a fresh application before the trial Court, raising the aforesaid contentions.

Leave granted with liberty as prayed for.

8) If such an application is filed, the learned Special Judge may decide the same in accordance with law and after dealing with the contentions that the charge-sheet was, in fact, not filed till 24th November, 2023 and the endorsement made by the Superintendent is incorrect.

9) The application stands disposed.

[N. J. JAMADAR, J.]