

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.40 OF 2024

Akshay Anil Walode

.. Applicant

Versus

The State of Maharashtra

.. Respondent

...

Mr.Prashant Pandey with Mr.Dinesh Jadhvani and Mr.Irfan Unawala i/b W3 Legal LLP for the Applicant.

Ms.Mahalaxmi Ganpati, A.P.P. for the State/Respondent.

Mr.J.J.Kamble, PN 5519, attached to Shivaji Nagar Police Station, Ambernath (E), present.

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CORAM: BHARATI DANGRE, J.

DATED : 22nd FEBRUARY, 2024

P.C:-

1. The learned APP Ms.Ganpati would vehemently oppose the Application on merits, by contending that the Applicant faces a serious charge under Section 302 read with Section 376 of IPC and, according to her, the material in the charge-sheet is sufficient enough to indict him.

2. The learned counsel for the Applicant would, however, invite my attention to the order dated 12/09/2022, when it was recorded that the Applicant is incarcerated since last five

years and, therefore, the Sessions Judge was requested to frame the charge within a period of six months and conclude the trial within a period of one year thereafter.

3. The present status of the sessions trial would reveal that the charge is framed on 12/07/2022 and, presently, the NBW has been issued against co-accused Nilesh. For the first time, the witness summons is issued on 20/01/2024, but though sixty one witnesses are cited, not a single witness has been examined till day.

It is only upon insistence from this Court, the charge has been framed.

4. Considering the long period of incarceration of the Applicant, he being arrested on 06/09/2017, he cannot be asked to wait more and undergo further incarceration, when no serious steps are being taken to proceed ahead with the trial.

Time and again and repeatedly, the highest Court of the Country as well as this Court have taken a consistent view that liberty of an individual is of utmost importance and it is enshrined in the Constitution of India as a fundamental right and has been recognised to be so. Awaiting the trial, the Applicant cannot be incarcerated indefinitely, despite the fact, that he is facing a charge of serious offence. Ultimately, he will face the consequences, on culmination of the trial.

In the wake of the above, the following order is passed.

: ORDER :

- (a) Application is allowed.
- (b) Applicant -Akshay Anil Walode shall be released on bail in connection with C.R.No.I-236 of 2017 registered with Shivaji Nagar Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The Applicant shall mark his attendance before the concerned police station on first Saturday of every month between 4.00 p.m. and 6.00 p.m.
- (d) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant shall not tamper with evidence.
- (e) On being released on bail, the Applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in the event of any change therein.

(SMT. BHARATI DANGRE, J.)