

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.394 OF 2024

Amir Sarfuddin Khan ...Applicant

vs.

The State of Maharashtra ...Respondent

VISHAL
SUBHASH
PAREKAR

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VISHAL SUBHASH
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Date: 2024.04.25
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Mr. Rajendra Rathod a/w. Mr. Sameer Merchant, for the Applicant.
Mr. S.R. Agarkar, APP, for the Respondent/State.
Mr. Manoj Kudmate, PSI, Chembur police station.

CORAM : N. J. JAMADAR, J.

DATE : APRIL 23, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. On 2nd April, 2024, this Court had passed the following order.

3] This is an application for bail. The first application was rejected by this Court by an order dated 3rd May, 2023. The said order was challenged before the Supreme Court. While dismissing the special leave petition as withdrawn, the Supreme Court had directed the trial court to ensure that an order on charge is made after hearing the parties, on its merits, within six months from the date of the said order.

4] The learned Counsel for the applicant submits that charge has yet not been framed. In the circumstances, it may be expedient to call a report from the learned Additional Sessions Judge seized with Sessions Case No.488 of 2021 arising out of CR No.37 of 2021 registered with Chembur Police Station regarding the stage and progress of the trial and, if charge has not been framed, the circumstances on account of which the charge could not be framed within the time stipulated by the Supreme Court.

3. The learned Additional Session Judge has submitted a report.

A copy of the roznama is annexed to the said report. The Court is informed that the charge has been framed on 29th February, 2024. The learned Additional Session Judge has stated that the charge could not be framed as the accused were not produced from prison and the draft charge was also not filed by the parties, despite order dated 21st September, 2023.

4. The learned Additional Session Judge has also adverted to the position of the Board of the said Court, including the time bound cases which the learned Additional Session Judge has to attend to. In the estimation of the learned Additional Session Judge, one and half years time is required to conclude the trial, subject to cooperation from both the sides.

5. The learned counsel for the applicant submitted that roznama of the proceedings would indicate that the trial has not proceeded diligently. It is very unlikely that the trial can be concluded within a reasonable period. It was submitted that since the charge was not framed within the time stipulated by the Supreme Court, the applicant deserves to be enlarged on bail.

6. By an order dated 3rd May, 2023 this Court had rejected the application ascribing reasons. There is no propriety in entertaining the application on merits again. On the aspect of the period of incarceration, as charge has already been framed and the learned

Additional Session Judge has indicated that the matter can be concluded within a period of one and half year, it may be expedient in the interest of justice that the trial is made time bound.

7. In the event the trial is not concluded within the period stipulated by this Court, despite an opportunity having been provided to the prosecution to adduce evidence and conclude the trial, this Court can legitimately consider the prayer for bail on account of long period of incarceration. Therefore, at this stage, I am not inclined to accede to the prayer for grant of bail on the ground of long incarceration.

8. The application thus stand rejected.

9. The learned Additional Session Judge seized with Sessions Case No. 488 of 2021 arising out of C.R. No. 37 of 2021 is requested to make an endeavour to conclude the trial as expeditiously as possible and preferably within a period of one year from the date of communication of this order.

Application disposed.

(N. J. JAMADAR, J.)