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Uday S. Jagtap

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 886 OF 2022

Umesh Bhausahab Arbole .. Applicant

Vs.

The State of Maharashtra .. Respondent

.....
Ms. Misbaah Solkar (through VC) a/w Gaurav Shenoy for the
applicant

Ms. Anamika Malhotra, APP for the respondent – State

Mr. K.V. Ambudkar, PSI, Ichalkaranji Police Station present

.....

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 18th MARCH, 2024.

P.C.

1. Heard learned Counsel for the applicant and the learned APP
for the respondent – State.

2. Various orders have been passed in the past calling for report
from the concerned trial Court as regards progress of the trial.

3. The explanation sought for from the trial Court dated 7th
February 2024 speaks volumes as to how the prosecution is
delaying the trial despite framing charge against the accused by the

trial Court on 4th September 2023. It appears that the prosecutor was absent even for issuing a notice to the defence under Section 294 of the Cr.P.C. It also transpired from the explanation given by the Special Judge, Ichalkaranji that Mr. Sardesai, who was incharge of the prosecution in the trial Court had moved an application to transfer the said case from the said Court to any other Court and to stay the proceeding till the decision on his application for transfer of his bail.

4. The explanation of the Special Judge further reveals that he had informed orally to the prosecutor Mr. S.S. Tambekar and Shri. M.N. Mohite-Patil, who had appeared before the said Court in other criminal matter, to appear in this matter since the matter is time bond.

5. The District Government Pleader, Kolhapur failed to appoint a prosecutor and, therefore, even the list of witnesses had not been given to the trial Court and, therefore, the trial Court was handicapped in proceeding with the case. No doubt, it is a serious matter which is under the stringent provisions of MCOC Act.

6. Learned Counsel informs that the applicant is languishing in

jail for about 6 years ever since his arrest on 15th December 2018. Learned Counsel for the applicant has also invited my attention to an order passed by this Court on 19th January 2024 in Criminal Bail Application No.131 of 2013 *qua* one of the accused namely – Sainath Shankar Wadkar.

7. Learned APP submits for passing necessary orders in view of the attending circumstances. Consequently, I am inclined to grant bail to the applicant only on the ground of long incarceration and also delay on the part of the prosecution despite making it time bound.

8. Now, to the order :-

ORDER

(i) The application is allowed.

(ii) The applicant be released on executing a P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

(iii) The applicant shall not enter the jurisdiction of Ichalkarani Police Station except for the purpose of attending the trial Court.

(iv) The applicant shall furnish his contact details and residential address to the concerned police station as well as to the trial Court and shall inform in case of any change.

(v) The applicant shall co-operate in the conduct of the trial and shall attend all the dates scrupulously, unless exempted.

(vi) The applicant shall not tamper with the evidence or influence the complainant, prosecution witnesses or persons concerned with the case.

(vii) The applicant shall surrender his passport, if any, with the Investigating Officer.

(viii) In case of breach of any of the conditions, the

prosecution will be at liberty to seek cancellation of his bail.

9. It is made clear that the above observations are *prima facie* for the purpose of granting bail to the applicant.
10. All concerned to act on the authenticated copy of this order.
11. The application is disposed of in the above terms.

(PRITHVIRAJ K. CHAVAN, J.)