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

BAIL APPLICATION NO.1085 OF 2024

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Sagar Alias Ganesh Alias Depo

Balasaheb Jagtap

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Umesh Mankapure with Aadesh Konde Deshmukh
for the applicant.

Mrs. S.S. Karnik, APP for respondent No.1 – State.

Mr. Sharad Kulkarni with Ms. Shilpa Kadam for
respondent No.2 – intervenor.

CORAM : AMIT BORKAR, J.

DATED : MAY 3, 2024

P.C.:

1. This is the second bail application filed by the applicant. This Court by order dated 8 August 2023 rejected the applicant's first bail application.

2. The applicant is seeking his release on bail contending two grounds as material change in the circumstances: first, injured is now completely fit and fine and able to do his day-to-day activities and he is doing regular work-out in the gym; and second, the applicant was arrested on 23 September 2022 and there is no possibility of completion of trial in near future.

3. The law in relation to entertaining second bail application is well settled. It is only in case of material change in circumstances, the Court can grant bail to the accused which has rejected its earlier bail application. Considering the nature of incident and resultant injury and role attributed to the applicant, this Court by detail observations in paragraphs 8 to 12 has rejected earlier bail application. Considering the reasons assigned in paragraphs 8 to 12, in my opinion, recovery of victim as alleged by the applicant does not amount to material change in circumstances.

4. It is true that the applicant was arrested on 23 September 2022. However, it is well settled that delay in trial cannot be sole factor for release of the applicant on bail. Though delay in trial is one of the major factor, the nature and gravity of accusations, severity of punishment and existence of prima facie case are also the factors which the Court is required to consider while entertaining application under Section 439 of the Criminal Procedure Code, 1973.

5. Considering the reasons assigned in paragraphs 8 to 12, in my opinion, in the facts of the present case the fact that the applicant is in jail since 23 September 2022 is not sufficient to release him on bail.

6. The bail application accordingly stands rejected.

(AMIT BORKAR, J.)