

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO.1240 OF 2023**

Karan Vishnu Jalpur

.....Applicant

Vs.

The State Of Maharashtra

.....Respondent

Mr. Nitin Sejpal a/w. Adv. Akshata B. Desai for the Applicant.

Mr. Ajay Patil APP, for the Respondent-State.

Mr. R.A. Pakhare, P.S.I., Central Police Station, Ulhasnagar, District Thane.

CORAM : A. S. GADKARI, J.

DATE : 4th APRIL, 2024.

PC:-

1) This is a successive Application for bail, under Section 439 of the Code of Criminal Procedure by the Applicant in C.R. No.I-347 of 2016 dated 9th August, 2016 registered with Central Police Station, Ulhasnagar, District Thane, now culminated into MCOC Special Case No.22 of 2017.

2) The earlier Application preferred by the Applicant bearing Criminal Bail Application No.567 of 2020 was dismissed as withdrawn with directions to the trial Court to conclude the trial of the Applicant i.e. MCOC Special Case No.22 of 2017 within a period of one year from the date of receipt of the Order dated 7th April, 2022.

3) Mr. Sejpal, learned counsel for the Applicant submitted that, as the prosecution was not serious enough in conducting the said case, the

learned Additional Special Judge (MCOC) Thane by its Order dated 8th February, 2024 has forfeited the right of prosecution to lead the evidence and the said case was posted for recording the statement of accused persons under Section 313 of Cr.P.C.

3.1) That, the said Order is challenged by the State of Maharashtra by way of Criminal Writ Petition (Stamp) No.5541 of 2024 before the learned Single Judge of this Court and by an Order dated 14th March, 2024, the trial of the said case has been directed to be deferred initially upto 21st March, 2024 and subsequently upto 8th April, 2024.

3.2) He submitted that, till date the State of Maharashtra has not taken any efforts to circulate the said Petition and therefore his trial is not concluded despite there being directions of this Court.

3.3) He submitted that, present Application is also filed on the ground of prolonged in incarceration without conclusion of trial.

4) Earlier the prosecution did not apply the provisions of MCOC Act to the present case and therefore the Applicant after his arrest on 14th August, 2016 was released on bail by the regular Court on 10th November, 2016. That, the provisions of MCOC Act are thereafter applied to the present case on 16th May, 2017 and the Applicant was again re-arrested on 21st March, 2019. That, the Applicant is in jail since 21st March, 2019.

5) After applying the principles enunciated by the Hon'ble Supreme Court in the case of *Union of India V/s. K. A. Najeeb reported in*

(2021) 3 SCC 713, followed by this Court in the case of *Anil Shankar Patil V/s. The State of Maharashtra (Bail Application No.33 of 2022, dated 29th July, 2022)*, this Court is of the view that, the Applicant can be released on bail on the ground of prolonged incarceration without trial.

6) Taking into consideration the fact that, the Applicant is in custody for more than 5 years, for an offence which is punishable with minimum imprisonment of 5 years and after applying the aforementioned principals of law, the Applicant can be enlarged on bail.

7) In view of the above, Applicant is entitled to be released on bail.

Hence, the following Order:-

- (i) Applicant be released on bail in C.R. No.I-347 of 2016 dated 9th August, 2016 registered with Central Police Station, Ulhasnagar, District Thane now culminated into MCOC Special Case No.22 of 2017, on his furnishing P.R. bond of Rs.50,000/- with one or two solvent local sureties.
- (ii) After his release from Jail, the Applicant shall attend Central Police Station, Ulhasnagar, District Thane, on every Monday of the month between 10.00 a.m. and 12.00 noon initially for a period of six months.

After end of six months, the Applicant shall attend

Central Police Station, Ulhasnagar, District Thane, on every first Monday of the month between 10.00 am and 12.00 noon till conclusion of trial.

- (iii) In case of two consecutive defaults in complying with the aforestated conditions, the prosecution is at liberty to file an application for cancellation of bail.
- (iv) Before his actual release from jail, the Applicant shall submit the documents of his prospective residential address to the Central Police Station, Ulhasnagar, District Thane so also to the trial Court.
- (v) After his release from jail, the Applicant shall attend all the dates before the trial Court, except precluded on medical ground.
- (vi) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

8) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

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by SANJIV
SHARNAPPA
MASHALKAR
Date: 2024.04.06
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