

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

BAIL APPLICATION NO.2650 OF 2023

Kamlesh Ramlakhan Varma

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Advocate Mansha Khemka with Ms Twinkle Khemka i/b. M/s. Khemka and Associates for the Applicant.

Mr. Ajay Patil, APP for the Applicant.

CORAM: SMT. ANUJA PRABHUDESSAI J.

DATED: 24th JANUARY, 2024.

(In Chamber)

P.C.:-

1. This is the second application for bail under Section 439 of Cr.P.C. filed by the aforesaid Applicant who is facing trail in MCOC Case No.6/2018 for offences punishable under Sections 120(B), 308, 380, 401, 411, 414, 454, 457, 465, 467, 468, 471, 473, r/w. 34 of the Indian Penal Code (IPC) and Sections 3(1)(ii), 3(2) and 3(4) of Maharashtra Control of Organized Crime (MCOC) Act, 1999. The previous bail application was dismissed on merits by order dated 15/07/2021.

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2. The said case arises from C.R.No.I-136/2017 registered with Sanpada Police Station, Navi Mumbai pursuant to the first information report lodged by Seema Kumari, Bank Manager of Bank of Baroda. The FIR reveals that the bank was closed on Friday i.e., 10/11/2017 at about 07:30 p.m. The next two days being Saturday and Sunday, the bank was opened on Monday i.e., 13/11/2017. Upon opening the strong room of the bank, it was noticed that a tunnel was constructed from the strong room to gala situated near the bank. It was found that several lockers were broke open and gold ornaments from the lockers were stolen.

3. The previous bail application was dismissed on the ground that the Applicant was one of the members of the crime syndicate headed by Hajid Ali Sabdar Ali Mirza Baig, involved in committing series of crimes. It was observed that the statement of the Applicant as well as statement of the main accused – Mohiddin Shaikh, recorded under Section 18 of M.C.O.C. Act reveals that the Applicant was involved in digging the tunnel upto the strong room. It was further observed that pursuant to the disclosure statement made by the Applicant part of the stolen gold jewelry was recovered

from the Applicant. Since the material on record prima facie showed involvement of the Applicant in commission of the said crime, on considering the gravity of the offence, the application for bail was rejected.

4. The present application has been filed mainly on the ground that there is no progress in the trial. The Applicant was arrested on 20/11/2017. He is in custody since last over 6 years. It is stated that till date charge has not been framed. The prosecution has cited above 300 witnesses. It is thus evident that the trial is not likely to conclude within a reasonable time. Suffice it to say that speedy trial also encompasses speedy investigation and it is one of the inalienable rights under Article 21 of the Constitution of India. It is also brought to my notice that following the principles in ***Union of India vs. K.A. Najeeb, in Criminal Appeal No.98 of 2021***, the other co-accused have been released on bail.

5. Under the circumstances, the application is allowed on the following terms and conditions:-

(i) The Applicant, who is facing trial in MCOC Case

No.6/2018 is ordered to be released on bail on executing PR bonds in the sum of Rs. 50,000/- with one or two local solvent sureties in the like amount;

(ii) The Applicant shall report to the Investigating Officer on first Saturday of every month between 10.00 a.m. to 11 a.m. till the conclusion of the trial;

(iii) The Applicant shall inform his latest place of resident and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

(iv) The Applicant shall not tamper with the evidence or attempt to influence/contact the complainant, witnesses or any person concerned with the case;

(v) The Applicant shall co-operate in the conduct of the trial and shall attend the trial Court on every

date of hearing, unless exempted by the trial Court;

(vi) An undertaking to the aforesaid clauses (iii) to (vi) shall be filed by the Applicant in the Registry of the Trial Court, within two weeks of his release;

(vii) If there are two consecutive defaults either in attending the police station or in appearing before the Trial Court or breach of any of the conditions as stated above, the prosecution will be at liberty to apply for cancellation of Applicant's bail.

6. The application stands disposed.

(SMT. ANUJA PRABHUDESSAI, J.)