

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****BAIL APPLICATION NO.2852 OF 2023****Sukhbir Mahesh Singh****.....Applicant****Vs.****The State Of Maharashtra****.....Respondent**

**Adv. Ravishankar Dwivedi a/w. Adv. Sainath S. Baji for the Applicant.
Dr. Dhanalakshmi Iyer APP for the Respondent-State.**

CORAM : A. S. GADKARI, J.**DATE : 4th APRIL, 2024.****P.C.:-**

- 1) This is a successive Application for bail in C.R. No. 258 of 2016 dated 3rd August, 2016 registered with Azad Maidan Police Station, Mumbai under Sections 302, 397 and 201 of the Indian Penal Code.
- 2) Record discloses that, the earlier Application for bail bearing Criminal Bail Application No.3377 of 2018 preferred by the Applicant was disposed off as withdrawn with liberty to file a fresh Application for bail before the trial Court, if the trial of the Applicant is not concluded within a period of seven months from the date of passing of the said Order dated 12th March, 2019.
- 3) The said liberty was granted to the Applicant on the basis of statement made by the prosecution on 12th March, 2019 that, the prosecution has examined 8 witnesses and was intending to examine 10

more witnesses in support of its case.

4) Learned counsel for the Applicant submitted that, the Applicant is arrested on 6th August, 2016 in the present crime and since then, he is behind bars. That, the prosecution as of today has examined 15 witnesses and the last witness was examined on 11th October, 2023 and there is no progress of the trial thereafter.

4.1) He submitted that, in view of the prolonged incarceration of the Applicant without conclusion of trial, the Applicant may be released on bail.

5) Per contra, learned APP opposed the Application and submitted that, now the Investigating Officer is only remained to be examined by the prosecution and therefore the trial may conclude within a short span of time. However, there is no reasonable explanation from the prosecution regarding further examination of witnesses after 11th October, 2023.

5.1) She submitted that, the Applicant is an ordinary residence of Agra, State of Uttar Pradesh and if released on bail, will not be available at the time of conclusion of trial. She therefore submitted that, present Application may be dismissed.

6) It is an admitted fact on record that, the Applicant is behind bars since 6th August, 2016 and as of today has undergone more than 7 years in incarceration. Despite granting opportunity to the prosecution by Order dated 12th March, 2019, it did not conclude the trial till today and in

last about 6 months not a single witness is examined by it.

7) 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.

8) 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.258 of 2016 dated 3rd August, 2016 registered with Azad Maidan Police Station, Mumbai, on his furnishing P.R. bond of Rs.25,000/- with one or two solvent local sureties.
- (ii) After his release from Jail, the Applicant shall attend Azad Maidan Police Station, Mumbai, on every alternate 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 Azad Maidan Police Station, Mumbai, 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 aforesaid 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 Azad Maidan Police Station, Mumbai so also to the trial Court along with mobile number and/or landline number whereon he can be contacted by the police.
 - (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.
- 9) Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

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