

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3065 OF 2023

Sadique Mohammad Akhtar Khan	...Applicant
Versus	
State Of Maharashtra	...Respondent

Mr.Dheeraj Panchange Advocate for Applicant.
Mr. Arfan Sait, APP for Respondent-State.
ACP, Priya M. Dhakane, Naupada Division Thane City.

CORAM : PRAKASH D. NAIK, J.

DATE : 16th JANUARY, 2024

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P.C.:-

1. The applicant is seeking bail in MCOC Case No. 7 of 2017 arising out of CR. No. I-292 of 2016 dated 5th December 2016 registered with Rabodi Police Station under Section 392 of Indian Penal Code, 1860. Subsequently, provisions of MCOC were invoked. Charge-sheet was filed for offence under Section 392 read with 34 of I.P.C. and Section 3(i)(ii), 3(2) and 3(4) of the MCOC Act.

2. The applicant had preferred Criminal Bail Application No.738 of 2018 before this Court which was allowed to be withdrawn by order dated 8th March 2019. Thereafter another application for bail preferred by the applicant viz. Criminal Bail Application No. 294 of 2021 on 21st November 2022 which was allowed to be withdrawn by observing that after arguing

for some time and upon indicating the serious nature of the offences, application was withdrawn. However, liberty was granted to prefer fresh application for bail in the event, no substantial progress is made in the trial. Vide order dated 29th November 2023, the co-ordinate Bench directed that the application be placed before this Court.

3. Learned Advocate for the applicant submitted that, in view of liberty granted to the applicant vide order dated 21st November 2023, the applicant had preferred this application as there is no substantial progress in the trial. The applicant is in custody for a period about seven years and one months. Trial is proceedings at closed face. Prosecution has examined only two witnesses. The applicant cannot be kept in custody for long incarceration and he is entitled for bail. Reliance is placed on the several orders passed by this Court including order dated 28th July 2023 passed in Criminal Bail Application No. 1772 of 2023 wherein bail was granted to the accused on the ground of long incarceration. Learned Advocate for applicant further submitted that while rejecting the previous application for bail the prosecution has submitted that fifteen witnesses would be examined. The maximum punishment which can be imposed upon applicant is to the extent of ten years. The applicant has undergone substantial imprisonment.

4. Learned APP submitted that offence is of serious nature. The applicant is prosecuted for offence under the MCOC Act. He is the gang

leader. In the past, several cases were registered against the applicant. In the affidavit, list of about 26 cases registered against the applicant provided in affidavit in reply. On instructions it is submitted that prosecution proposes to examine eight more witnesses and hence, trial may be expedited. Trial could be concluded within a period of six months.

5. The Court is conscious of the fact that the applicant is in custody since last seven years and one month. The prosecution has so far examined two witnesses. Considering the fact that the prosecution proposes to examine eight more witnesses, the application can be disposed off by issuing direction to the trial Court to conclude the trial within a period of six months

ORDER

- (i) Criminal Bail Application stands rejected.
- (ii) The trial Court is requested to conclude the trial within a period of six months from the date of receipt of order. In the event the trial is not concluded within a period of six months, the applicant is at liberty to file fresh application for bail.
- (iii) This order shall be communicated to the trial Court immediately.

(PRAKASH D. NAIK, J.)