

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3161 OF 2023

Shakil Nasim Khan .. Applicant
Versus
The State of Maharashtra .. Respondent
...

Mr.Pramod G Kathane, a/w Manoj Sawandekar for the applicant.
Ms. Mahalaxmi Ganpathy, APP for the State.

CORAM: BHARATI DANGRE, J.
DATED : 17th APRIL, 2024

P.C:-

1 The application was addressed by the applicant through Superintendent Thane Central Jail and pursuant thereto, Advocate Pramod Kathane was appointed to represent the applicant.

Pursuant thereto, he has filed an application for securing the release of the applicant on bail, in connection with FIR No. 200 of 2017, registered with Amboli Police Station, where the applicant face trial under Section 302, 394, 397 r/w 34 of IPC.

2 Mr. Kathane has invited my attention to the order passed by this Court on 28/02/2023, when it was recorded that the prosecution wants to examine 6 to 7 witnesses and therefore

the trial was expedited, and was directed to be concluded within a period of one year.

Admittedly, as on today i.e. on 17/04/2024, the trial remains unconcluded.

3 Along with the application, Mr. Kathane has placed on record the roznama of the proceedings and the recording in the roznama dated 20/03/2024 is as under:-

“But, the accused person were not produced physically today. 5. Even if that is so, it will have to be noted that Advocate Mr. Kalam Shaikh has been examining the witness appearing on behalf of the prosecution and has cross examined all the witness till date. It is therefore difficult to see as to how could he not have the necessary instructions to cross examine P.W. 6- Pyarelal Sharma- the panch through whom more than 5 panchanamas have been proved by the prosecution. The witness having remained present today and the date having been fixed with due consultation there is no proper and legal reason for seeking an adjournment. If any more instructions were to be taken by the Advocate from the accused, he could have very well taken the same on V.C. in the chamber of the Court without anybody is nothing, but a ploy to delay the matter to help the accused to secure bail and nothing else. Hence, I do not find any merit in the application. I proceed to pass the following order. ORDER The Application (Exh.122) in Session Case No.122 of 2018 stands rejected. Adj. for evidence part heard on 08-04-2024.”

The learned APP Ms. Ganapathy, inform that the next date of the Sessions trial is 22/04/2024.

4 It is not in dispute that the applicant is incarcerated for more than 7 years, but it is informed that the trial is underway and 5 more witnesses are expected to record their

evidence and which largely include the Investigating Officer and the Medical Experts. It is therefore, necessary for the Court to ensure that on the date assigned for recording of the evidence, they are either physically present or their evidence can also be recorded through VC.

5 The learned Additional Sessions Judge, who is in seisin of the trial has also expressed her displeasure over the manner in which the accused persons are produced, though she has specifically recorded that it is also permissible to secure their presence through VC. The learned Judge has specifically recorded that non production of the accused person through VC on the relevant date is probably a ploy to delay the matter to help the accused, to secure the bail.

It is ultimately for the Additional Sessions Judge to ensure the compliance, which shall include presence of the accused persons either in person or through VC, on each date of hearing as the trial was made timebond by the High Court one year back, but still it is not concluded.

I deem it appropriate that the examination of the witnesses in any case shall be concluded on or before 30/07/2024 and thereafter on recording the statement of the accused persons, the judgment shall be pronounced on or before 30/10/2024.

In the light of the aforesaid direction, I am not inclined to consider the request of the applicant to release him on

bail.

The application is dismissed.

6 This court would like to place on record appreciation for Advocate Pramod Kathane for effectively assisting the applicant. The legal services authority is directed to pay the legal remuneration to her within a period of six weeks from today.

(SMT. BHARATI DANGRE, J.)