

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3284 OF 2023

Anil Sadanand Patil ...Applicant
vs.
The State of Maharashtra ...Respondents

Adv. Junaid Thange h/f Amin Solkar - Advocate for the Applicant
Mr. H. J. Dedhia - APP for the Respondent-State
Mrs. Hemalata Deshmukh – Spl. PP

CORAM : S. M. MODAK, J.

DATE : 06th MARCH 2024

P. C. :-

1. I have already heard learned Advocate for the Applicant and learned APP and learned Special PP who is conducting the case.

2. The report was called from the Court of the Additional Sessions Judge, Bhiwandi on certain issues. The report dated 04/03/2024 is received. He has given following details :-

- a) There are 427 pending cases of under trial prisoners,
- b) The nodal officer evidence is going on and yet to be cross-examined on behalf of the few accused.
- c) Evidence of the Investigating officer is over.
- d) Counter Session case No. 157 of 2023 can be started from May 2024.

3. It is true that the earlier Bail Application No. 178 of 2023 of this Applicant was already rejected on 23/03/2023. Liberty was granted to move again, if the trial will not over within six months. At that time, three witnesses remained to be examined on behalf of the prosecution. Now all are examined, except cross-examination of the Nodal officer.

4. This application is moved even after expiry of the six months. There are allegations and counter allegations against each other about the conduct of the parties during the trial of the case.

5. Learned Special PP submits that the Applicant has unnecessarily insisted for recording the evidence of the Investigating Officer physically and the counsel was also not present on few of the dates. Whereas the Applicant's contention is the matter was adjourned on some occasion without the reason attributable to him. As this application is decided almost within one year, the Court is not going into that issue.

6. Today I am inclined to grant bail to this Applicant, the reason is the ground of the counter case taken during hearing of this application was not brought to the notice of the Court when the bail

application was decided on 23/03/2023. If it could have been pointed out during oral submissions, certainly the Court could have made certain observations at that time. Even the in the said application, the first informant was represented by learned Advocate.

7. The present Applicant is witness in counter case. That case will be conducted in due course. I do not think it is advisable to detain this Applicant till conclusion of trial of counter case. I have expressed this opinion only for the reason that earlier this fact was not brought to the notice of the Court. The seriousness of the allegation cannot be considered by rejecting the bail but it can only considered by putting strict conditions.

8. In view of that following order :-

ORDER

(i) Bail application is allowed.

(ii) Applicant arrested in connection with C.R. No. I-218 of 2015 registered with Bhiwandi Taluka Police Station in Sessions Case No. 221 of 2023 for the offence punishable under Sections 302, 307, 326, 341, 120-B, 143, 147, 148, 149, 506 of the Indian Penal Code and Sections 4 and 27 of the Arms Act be released

on bail on furnishing Personal bond and surety bond in sum of Rs. 1 Lakh.

- (iii) After release on bail the Applicant shall not enter the village Pogaon, Taluka Bhiwandi till conclusion of this sessions Case of which trial is going on.
- (iv) The Applicant not to threaten the prosecution witness and allure them in any manner.
- (v) Applicant to furnish alternate place of the residence to the trial Court and to the Police.
- (vi) Applicant not to leave the territorial limits of the Thane District till conclusion of the trial of the Sessions Case No. 221 of 2023.
- (vii) Applicant to give attendance on every Monday from 10 to 12 noon to the nearest Police Station within the local limits of which he is going to stay during this period.

9. Accordingly, bail application is disposed of.

[S. M. MODAK, J.]