

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3600 OF 2022**

Mohd. Sameer Mohd. Anwar Shah	...Applicant
<i>Versus</i>	
The State of Maharashtra & Anr.	...Respondents

None present for the Applicant.
Mr. M. G. Patil, APP for the Respondent-State.
Ms. Vaishali Borase, API attached to Dharavi Police Station, Mumbai present.

**CORAM Dr. Neela Gokhale, J.
DATED: 24th January 2024**

PC:-

1. By this application the Applicant seeks his enlargement on bail in connection with C.R. No. 565 of 2022 registered with Dharavi Police Station, Mumbai for the alleged offences punishable under Sections 376, 376(2)(n), 452, 323, 427, 504 & 506 of the Indian Penal Code, 1860 and under Sections 4, 6, 8 & 12 of the Protection of Children from Sexual Offences (P.O.C.S.O.) Act, 2012.

2. Mr. Patil, learned APP for the Respondent-State places on record a copy of an order dated 15th September 2023 passed by this Court in Bail Application No. 1773 of 2023 whereby the present Applicant is already enlarged on bail on certain terms and conditions. The same is taken on record and marked as “X-1” for identification.

3. The present bail application is filed on 28th November 2022. The Applicant has filed a subsequent Bail Application No. 1773 of 2023 in this Court in the same C.R. seeking his enlargement on bail. A plain reading of the order does not indicate that the Court was apprised of pendency of the present bail application.

4. It is apparent that the subsequent bail application is filed by the Applicant concealing the material fact regarding pendency of the present bail application before this Court. This case is one such case where an attempt appears to have been made by the Applicant to deceive the Court and interfere with the administration of justice. The Applicant ought not to have filed a second bail application during pendency of the present bail application. It was at least his duty to inform the Court during hearing of Bail Application No. 1773 of 2023 regarding pendency of the present bail application. This conduct of the litigant is seriously deprecated.

5. The Supreme Court in its judgment and order dated 19th January 2024 passed in criminal appeal in the matter of ***Kusha Duruka v. The State of Odisha***¹ while dealing with a similar matter, has laid down mandatory contents of a bail application. In this decision, the Supreme Court has listed the pre-requisites to be mentioned in bail applications, to streamline the procedures and to avoid anomalies. The Supreme Court has thus issued directions in this regard in its said decision.

6. Considering conduct of the Applicant, one option available to this Court is to cancel his bail for filing a second bail application during pendency of the present bail application and, then too,

1 2024 SCC OnLine SC 56.

without disclosing the said fact in the subsequent application. Infact even the learned APP has sought such cancellation, and rightly so. However, I refrain from taking such an extreme step in the case in hand, although in my view, this is an option which is open to the Court to exercise, seeing the conduct of Applicant. The application is dismissed as infructuous.

7. However, the Applicant is directed to deposit an amount of Rs. 5,000/- towards costs for his conduct in concealing material facts from the Court passing the earlier bail order, to be deposited by him with the Maharashtra Legal-aid Services Authority within a period of two weeks from today and proof of deposit be furnished in this Court. Learned APP through the Investigating Officer shall ensure that the said amount is deposited and the present order is complied with by the Applicant.

8. Bail application stands disposed accordingly.

(Dr. Neela Gokhale, J.)

GITALAXMI
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