

*IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION*

*CRIMINAL BAIL APPLICATION NO. 1918 OF 2022*

|                          |               |
|--------------------------|---------------|
| Farooq Shaukat Bagwan    | ... Applicant |
| Versus                   |               |
| The State of Maharashtra | ...Respondent |

Mr. Mubin Solkar a/w Mr. Tahir Hussain and Mr. Anas Shaikh i/b Mr. Aamir Sopariwala, for the Applicant.

Mr. V. B. Konde-Deshmukh, Addl.P.P. for the Respondent- State.

Mr. Amol V. Pawar, PSI, ATS Police Station, Mumbai, Pune Unit, present.

*CORAM : MANJUSHA DESHPANDE, J.*

*DATE : 15<sup>th</sup> FEBRUARY 2024*

*P.C. :*

1. Learned Counsel for the Applicant submits that the present Application for bail arising out of the MCOCA Special Case No. 7 of 2013, pending before the Special MCOCA Court, Mumbai, in connection with C.R. No. 9 of 2012, registered with ATS Police Station, Mumbai (Original C. R. No. 168 of 2012 registered with the Deccan Police Station, Pune), for the offences punishable under Sections 307, 435 and 120B of the Indian Penal Code ("IPC") r/w Sections 3, 4 and 5 of the Explosive Substances Act r/w Sections 3

and 25 of Arms Act, r/w Sections 16(1)(b), 18, 20, 23, 38 and 39 of the Unlawful Activities (Prevention) Act, 1987, and r/w Section 3(1) (ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime (MCOC) Act, 1999.

2. Learned Counsel for the Applicant places on record a copy of the order dated 3<sup>rd</sup> March 2022, passed by this Court in Bail Application No. 3131 of 2021. The said application arising out of the same crime under the special enactment, i.e. UAP Act, refers to the order passed by the Hon'ble Apex Court in *Bikramjit Singh V/s State of Punjab*<sup>1</sup>, wherein it is observed that the Court trying offences under the second Schedule of the NIA Act being the Special Court, as contemplated by Section 22 of the NIA Act, the person aggrieved by an order of refusing bail is required to file appeal under Section 21(4) of the NIA Act, and the application under Section 439 of the Cr.P.C. is not maintainable before the High Court.

3. In view of the said findings recorded by the Hon'ble Apex Court in the said bail application, this Court (Coram: Bharati

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<sup>1</sup> (2010) 10 SCC 616

Dangre, J.) vide order dated 3<sup>rd</sup> March 2022 permitted the applicant therein to convert the application into an appeal, under Section 21(4) of the NIA Act.

Learned Counsel for the Applicant submits that similar order may be passed in the present Application also.

4. Considering that the present matter is similar to the said order dated 3<sup>rd</sup> March 2022 passed by this Court, the Applicant is granted liberty to convert the present Application into an appeal under Section 21(4) of the NIA Act. The Applicant to take necessary steps in view of the said order.

5. The learned Counsel for the Applicant undertakes to supply the copy of the converted appeal to the office of the Public Prosecutor.

*[MANJUSHA DESHPANDE, J.]*