



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.787 OF 2024

Sachin Hindurao Waze

...Petitioner

Versus

State of Maharashtra

...Respondent

Mr. Aabad Ponda, Senior Advocate a/w Mr. Sajal Yadav, Mr. Shalabh K. Saxena, Mr. Rounak Naik, Mr. Harsh Ghangurde, Mr. Aayushya Geruja, Mr. Raj Raut, Mr. Nihal Rebello and Ms. Dakshata Dupare for Petitioner.

Mr. Rahul Tiwari, Ms. Akanksha Mishra and Ms. Tripti Tiwari for UOI.

Mr. Raja Thakare, Additional Solicitor General (through VC), Mr. Kuldeep Patil, Mr., Siddharth Jagushte, Mr. Akash Kavade for CBI.

Ms. A. A. Takalkar, APP for the State.

CORAM : M. S. Sonak &
Jitendra Jain, JJ.

DATED : 22 October 2024.

PC.:-

1. Heard Mr. Ponda, Senior Advocate for the petitioner and Mr. Raja Thakare, Additional Solicitor General of India for the respondents.

2. Mr. Thakare learned that the Additional Solicitor General of India states that the respondents have no objection to the petitioner being enlarged on bail due to the peculiar facts and circumstances of the case.

3. Mr. Thakare submitted that the accused persons have already been enlarged on bail, and the petitioner is in custody due to

his involvement in another criminal case for which the Trial Court has rejected his bail application.

4. Mr. Thakare submitted that the Constitutionality of Section 306(4)(b) of the Criminal Procedure Code, 1973 (Cr.P. C.) may not be considered in this matter now that the respondents have no objection to the petitioner being released on bail. He submitted that the issue of Constitutionality should not be decided as an academic exercise.

5. Mr. Ponda, learned Senior Advocate for the petitioner, submits that if the petitioner is being released on bail, at least for the present, the petitioner will not press the issue of Constitutionality. However, he submitted that if and when any occasion arises, the petitioner should be reserved the liberty to raise and agitate this issue.

6. The learned counsel of the parties states that this Court could grant bail to the petitioner by exercising its powers under Article 226 of the Constitution of India read with Section 482 of the Cr. P. C. They relied on **Arnab Goswami v. The State of Maharashtra** AIR 2021 SC 1 to submit that it is open to this Court to grant bail to the petitioner by exercising such powers.

7. Accordingly, given the peculiar circumstances and the fact that the Ld. ASG opened by submitting that the Respondents do not object to the grant of bail; we direct the petitioner's release on bail subject to such terms and conditions as the Special Judge shall impose when dealing with Special Case No.568 of 2022. Since this bail is to operate during the pendency of Special Case No.568 of 2022, based on this order, the learned Special Judge must impose necessary conditions for the petitioner's release on bail.

8. We clarify that this bail is only in the context of Special Case No.568 of 2022 and based on this order, there is no question of the

petitioner seeking his release in any other case for which he is in custody.

9. Now that this bail is granted pending Special Case No.568 of 2022. Mr. Ponda, on instructions from the petitioner, seeks leave to withdraw this petition with liberty to raise and agitate the issue of Constitutionality under Section 306(4)(b) of the Cr. P. C. if and when any occasion for the same arises.

10. Accordingly, we dispose of this petition as withdrawn with liberty as prayed for.

(Jitendra S. Jain, J.)

(M. S. Sonak, J.)