

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1160 OF 2024

Sachin Dilip Sambare ... Applicant

Vs.

State of Maharashtra and another ... Respondents

Ms. Mansha Khemka a/w. Ms. Twinkle Khemka i/b. Khemka & Associates for Applicant.

Mr. Sagar R. Agarkar, APP for Respondent No.1-State.

Mr. Prashant Pandey and Mr. Dinesh Jadhvani i/b. Mikdad Aziz Zumnerwala for Respondent No.2.

Mr. Nilesh Bankar, API, Crime Branch Unit-1, Navi Mumbai.

CORAM : MANISH PITALE, J.

DATE : OCTOBER 24, 2024

P.C. :

1. Heard Ms. Khemka, learned counsel for the applicant, Mr. Agarkar, learned APP for the respondent-State, as also Mr. Pandey, learned counsel appearing for the first informant.

2. By order dated 20.09.2024, this Court had called for a report from the concerned trial Court with regard to the progress of the matter. On 18.10.2024, the direction had to be reiterated as report was not found on record.

3. The concerned trial Court i.e. District Judge-1 and Additional Sessions Judge, Belapur, Navi Mumbai, by letter dated 19.10.2024 clarified that in terms of the order dated 20.09.2024, a detailed report dated 09.10.2024 was already submitted before this Court. It appears that there was some communication gap at the level of the Registry of this Court, due to which, the order dated 18.10.2024 was passed, reiterating the directions given by this Court to submit the report. Now the report dated 09.10.2024 has been placed on record.

4. This Court is of the opinion that the contents of the said report do indicate that except for a few dates when the proceedings before the said Court had to be adjourned due to the time sought on behalf of the first informant to respond to the application for discharge filed by the applicant and on one occasion, the Court being not available, on various dates, adjournment was sought on behalf of the applicant himself on the ground that the present bail application is pending before this Court. The said report gives an impression that sincere efforts were not made by the applicant himself for proceeding further in the matter before the said Court for various reasons, including the pendency of the present bail application before this Court.

5. If the applicant himself was seeking adjournment on the ground of the pendency of the present bail application, he cannot be permitted to turn around and claim benefit of 'long incarceration pending trial'. In the order dated 20.09.2024, this Court had already taken note of the order dated 07.07.2023, when the earlier bail application of this very applicant was considered on merits and when the Court was not inclined to grant relief, it was withdrawn by the applicant. The said bail application was heard and disposed of after filing of the charge-sheet and therefore, there is no change in circumstance, warranting hearing of this application on merits.

6. Hence, the present application deserves to be dismissed. However, it is brought to the notice of this Court that the prosecution in the present case is intending to examine 31 witnesses. At this stage, even charge is not framed and one of the contributing factors is the manner in which the application for discharge filed on behalf of the applicant has remained pending, particularly due to the repeated adjournments sought on behalf of the applicant himself.

7. In view of the above, the application is dismissed. Nonetheless,

the concerned Sessions Court is directed to take up the question of framing of charge at the earliest. An effort shall be made to expedite the trial and to complete the same within a period of one year from today.

8. If the trial is not completed within the aforesaid period of time and delay is not attributable to the applicant, liberty is reserved for the applicant to move the Sessions Court to renew his prayer for bail.

(MANISH PITALE, J.)

Minal Parab