

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1996 OF 2024

Suresh Ganpati Deshmukh, Age 48 years,
Occ.Service, R/o.Post Kurkumbh,
Phirangi Mata Mandir,
Tal.Daund, Dist.Pune
At present in Yerwada Prison.

Applicant

versus

The State of Maharashtra

Respondent

Ms.Harshada Shrikhande h/for Mr.Siddharth A.Mehta for Applicant.
Mr.Rushikesh Munde with Mr.Tejas Bhattacharya, Special PP for
State.
Mrs.Geeta PMulekar, APP, for State.

CORAM : ANIL S.KILOR, J.

DATE : 30th July 2024

PC :

1. Heard.
2. By this application under Section 439 of the Code of Criminal Procedure the applicant is seeking bail in Crime No.2 of 2016 registered with Customs Department (Narcotics Cell), Pune for the offences punishable under Sections 22(c), 29(1) r/w Section 8(c) of Narcotic Drugs and Psychotropic Substances Act, 1985.
3. In the present case the Applicant is in jail from last eight years. Up till now only one witness has been examined and there are total 37 witness. Thus, considering the pace with which the trial is proceeding, there is no end in sight of the trial to conclude.

4. The Hon'ble Supreme Court of India in the case of Mohammad Muslim @ Hussain Vs. State (NCT of Delhi) (2023-SCC OnLine-SC-352) has observed thus :-

“18. The appellant has been in custody for over 7 years and 4 months. The progress of the trial has been at a snail's pace : 30 witnesses have been examined, whereas 34 more have to be examined.

20. A plain and literal interpretation of the conditions under Section 37 (i.e. that Court should be satisfied that the accused is not guilty and would not commit any offence) would effectively exclude grant of bail altogether, resulting in punitive detention and unsanctioned preventive detention as well. Therefore, the only manner in which such special conditions as enacted under Section 37 can be considered within constitutional parameters is where the court is reasonably satisfied on a prima facie look at the material on record (whenever the bail application is made) that the accused is not guilty. Any other interpretation, would result in complete denial of the bail to a person accused of offences such as those enacted under Section 37 of the NDPS Act.

22. Before parting, it would be important to reflect that laws which impose stringent conditions for grant of bail, may be necessary in public interest; yet, if trials are not concluded in time, the injustice wrecked on the individual is immeasurable. Jails are overcrowded and their living conditions, more often than not, appalling. According to the Union Home Ministry's response to Parliament, the National Crime Records Bureau had recorded that as on 31st December 2021, over 5,54,034 prisoners were lodged in jails against total capacity of 4,25,069 lakhs in the country. Of these 1,22,852 were convicts; the rest 4,27,165 were under trials.

24. There is a further danger of the prisoner turning

to crime, “as crime not only turns admirable, but the more professional the crime, more honour is paid to the criminal” (also see Donald Clemmer’s ‘The Prison Community’ published in 1940). Incarceration has further deleterious effects – where the accused belongs to the weakest economic strata : immediate loss of livelihood, and in several cases, scattering of families as well as loss of family bonds and alienation from society. The courts therefore, have to be sensitive to these aspects (because in the event of an acquittal, the loss to the accused is irreparable), and ensure that trials – especially in cases, where special laws enact stringent provisions, are taken up and concluded speedily.”

5. In view of the above referred observations and considering the period of incarceration and unlikelihood of the trial to be concluded in near future, I am of the opinion that Applicant is entitled for grant of bail. Hence, I pass following order :

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) It is directed that the applicant shall be released on bail in Crime No.2 of 2016 registered with Customs Department (Narcotics Cell), Pune for the offences punishable under Sections 22(c), 29(1) r/w Section 8(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 on furnishing P.R.Bond of Rupees Fifty Thousand with one solvent surety in the like amount;
- (iii) The Applicant shall attend Customs Department (Narcotics Cell), Pune on every 1st and 16th of every month between 12.00 noon and 2.00 pm till conclusion of trial, except on the date of trial;
- (v) The applicant shall not directly or indirectly make any

inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

(vi) Liberty is granted to the State/Customs Department for cancellation of bail if the applicant commits similar offence;

(vii) The applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the trial Court for any reason.

(ANIL S.KILOR, J.)

MST