

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2520 OF 2024

Rajkumar Ramchandra Jha	...	Applicant
Vs.		
State of Maharashtra	...	Respondent

Mr. Shriganesh S. Sawalkar for Applicant.
Mr. Prasanna Pradeep Malshe, APP for Respondent-State.

CORAM : MANISH PITALE, J.
DATE : AUGUST 05, 2024

P.C. :

. Heard Mr. Sawalkar, learned counsel for the applicant and Mr.Malshe, learned APP for the respondent-State.

2. While pressing the prayer made in the present application, the learned counsel for the applicant submits that although the applicant is facing trial for offence under Sections 302 and 201 of the Indian Penal Code, 1860 (IPC) wherein the punishment for offence under Section 302 of the IPC can lead to sentence of imprisonment for life, in view of the long incarceration of the applicant, this Court may consider exercising power as a Constitutional court to grant bail to the applicant.

3. It is brought to the notice of this Court that in the present case, the FIR is dated 19.09.2015 and the applicant was arrested immediately on the next day i.e. 20.09.2015. Consequently, the applicant has remained behind bars since then and he has almost completed nine years of incarceration. Reliance is placed on judgement of the Supreme Court in the case of *Union of India Vs. K. A. Najeeb*, **(2021) 3 SCC 713** and order of this Court in the case of *Akash Satish Chandalia Vs. State of Maharashtra* (order dated **26.09.2023** passed in **Criminal Bail**

Application No.1779 of 2023). It is submitted that speedy trial being a facet of the right under Article 21 of the Constitution of India, this Court may consider allowing the present application. Specific reference is made to an order dated 19.06.2024 passed by the Sessions Court, observing that the matter is old and therefore, the prosecution is directed to take effective steps to secure presence of witnesses.

4. The learned APP submits that on merits, the applicant has no case as there is sufficient material to indicate the involvement of the applicant with the incident in question. It is submitted that although charge was framed in the year 2019, the trial is at the stage of evidence before the Sessions Court.

5. There is no dispute about the fact that the applicant has been behind bars since 20.09.2015 i.e. for a period of almost nine years. Although the applicant is indeed alleged to have committed a heinous crime, that in itself, cannot be a ground to reject the present application, particularly in the light of the long incarceration already suffered by the applicant. The Supreme Court and this Court have emphasized on right to speedy trial being a facet of right to life guaranteed under Article 21 of the Constitution of India. Being a fundamental right, the Courts have been giving due weightage to the said aspect of the matter and in such cases, this Court, as a Constitutional court, has been exercising power to release such accused under-trials on bail, particularly when they have languished in jail for long periods of time and the progress of the trial is extremely slow and there is no likelihood of the trial being completed in a reasonable period of time.

6. The learned counsel for the applicant is justified in relying upon the judgement of the Supreme Court in the case of **Union of India Vs. K. A. Najeeb** (*supra*) and the order of this Court in the case of **Akash Satish Chandalia Vs. State of Maharashtra** (*supra*).

7. It is relevant to note that on 19.06.2024, the Sessions Court, in the Sessions Case No.115 of 2016, recorded as follows:-

“ This is a matter of 2016. The charge is framed against the accused on 15.10.2019. Since then, prosecution has failed to secure the presence of the witnesses and to examine them. From the record, it reveals that, accused are in jail since long. The matter is old one. Therefore, prosecution is directed to take effective steps to secure the presence of witnesses and to conclude the trial.”

8. It is evident that in the present case, charge was framed as far back as on 15.10.2019 and evidently, there is hardly any progress in the trial. The stage before the trial Court is still shown as the stage of evidence. There is no likelihood of the trial being completed within the foreseeable future. Hence, this Court is inclined to allow the present application, purely on the ground of long incarceration already suffered by the applicant and there being very little possibility of the trial being completed within a reasonable period of time.

9. In view of the above, the application is allowed in the following terms:-

- (A) The applicant shall be released on bail in connection with FIR No.448 of 2015 dated 19.09.2015 registered with Central Police Station, Ulhasnagar, District - Thane, on furnishing P.R. Bond of Rs.50,000/- [Rupees Fifty Thousand only] with one or two sureties in the like amount to the satisfaction of the trial Court;
- (B) The applicant shall cooperate with the trial Court for expeditious trial and he shall attend each and every date, unless exempted for reasons to be recorded in writing;
- (C) The applicant shall not tamper with the evidence of the prosecution. He shall not influence the informant, witnesses or any other person concerned with the case;

(D) Upon being released on bail, the applicant shall immediately, and in any case within a week, furnish the details of his active mobile numbers and residential addresses to the trial Court and update the same in case of any change.

10. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of bail. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

11. The application is disposed of.

(MANISH PITALE, J.)

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