



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

**BAIL APPLICATION NO. 2628 OF 2024
(SERIAL NO. 21)**

Mohamed Sikander Cheemu ...Applicant

vs.

Union of India and Anr. ...Respondents

**ALONGWITH
BAIL APPLICATION NO. 1618 OF 2022
(already disposed of)**

Mohamed Sikander Cheemu ...Applicant

vs.

Union of India and Anr. ...Respondents

Adv. Ayaz Khan a/w Adv. Dilip Mishra a/w Adv. Zehra Charania a/w Adv. Mallika Sharma	Advocate for the Applicant-Mohamed
Advait M. Sethna a/w Rangan Majumdar a/w Poushali Roychoudhary a/w Sandeep Raman i/by Ruju R. Thakker	Advocate for the Respondent No. 1 (DRI) in both applications
Mr. A. D. Kamkhedkar	APP for Respondent State in Serial No. 20
Ms. S. E. Phad	APP for Respondent State in Serial No. 21

CORAM : S. M. MODAK, J.

DATE : 31st JULY 2024

P.C. :-

1. Heard learned Advocate Shri Ayaz Khan for the Applicant-

Mohamed and learned Advocate Shri Sethna for the Respondent No.

1.

2. This Court has earlier rejected the bail application No. 1618 of 2022 of this Applicant on 20/12/2023. Prosecution was given one chance to lead the evidence that is why trial was expedited.

3. There were two directions about adherence of the time:-

(i) to frame the charge within three weeks.

(ii) Finish the trial within six months from the date of the framing of the charge.

4. The period is already over, but trial is yet going on. Both of them have invited my attention to different roznamas. If the period from 20/12/2023 till today is to be bifurcated, it can be done in the following way :-

a) Date of the framing of the charge – 09/01/2024.

b) Date on which first witness was examined – 13/06/2024

c) Second witness was examined on 19/06/2024 - there were certain objections about marking the statement recorded under Section 67 of the Narcotic Drugs and Psychotropic Substances Act and

d) On 24/07/2024 matter was adjourned to 08/08/2024.

5. If we see all the roznamas, it is true that from the above events, from Court side there are two developments. Letter was issued to the Directorate of Revenue Intelligence to ascertain the Public Prosecutor. And the case is transferred to different Judge, probably for distributing the work by learned Principal District Judge. No doubt two witnesses are examined, so there is progress in the trial. But the fact remains, learned Special Public Prosecutor was not present after framing of the charge on 09/01/2024, till the time new Special Public Prosecutor is appointed. Almost five months have elapsed from 09/01/2024 till 13/06/2024. If trial has to be finished within six months, the Directorate of Revenue Intelligence ought to have been vigilant and ought to have made available the Public prosecutor. Merely because subsequently two witnesses were examined, it will not help the prosecution, because already substantive period have elapsed prior to examining the first witness.

6. It is true that earlier bail was sought on account of long incarceration. If there is a direction from this Court, there may be difficulties in adhering to time limit. But so far as appointment of the

Special PP is concerned, it cannot be considered as justified ground which can be considered in favour of the prosecution.

7. It is true that learned trial Judge has requested for extension of the time for one year as per his letter dated 02/07/2024. Roznama are already shown to me. When I am inclined to grant bail, there is no point in granting the extension as prayed for.

8. Apart from the present Applicant there are other under trial prisoners, trial Court may continue to give priority to dispose of the case. Hence, the following Order is passed :-

ORDER

(i) Bail Application No. 2628 of 2024 is allowed.

(ii) The Applicant-Mohamed Sikander Cheemu arrested in connection with F. No. DRI/MZU/C/INT-03/2020 of DRI Mumbai in Special Case No. 352 of 2020, be released on bail on furnishing Personal Bond and Surety Bond in sum of Rs. 50,000/-.

(iii) The surety from the Thane District be furnished.

(iv) The Applicant shall not threaten the prosecution witnesses.

(v) Applicant is directed to give attendance to the Office of the

Directorate of Revenue Intelligence, on first Monday of every month from 10.00 to 12.00 noon till completion of the trial.

9. There is no need to accept the request of extension as bail is already granted.
10. Accordingly, Bail Application No. 2628 of 2024 is disposed of.
11. Parties to act upon an authenticated copy of this Order.

[S. M. MODAK, J.]