

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3372 OF 2024

Vikas @ Vickky Nagnath More ... Applicant
Vs.
State of Maharashtra ... Respondent

Mr. Shailesh D. Chavan with Mr. Abhisekh Z. for Applicant.
Mr. Sagar R. Agarkar, APP for Respondent-State.
Mr. Sunil T., API, AEC, Crime Branch, Thane.

CORAM : MANISH PITALE, J.
DATE : NOVEMBER 29, 2024

P.C. :

1. Heard Mr. Chavan, learned counsel for the applicant and Mr. Agarkar, learned APP for the respondent-State.

2. The applicant was arrested on 19.09.2018 in connection with FIR No.I-63 of 2018 dated 20.03.2018 registered with Vartaknagar Police Station, District - Thane, for offences under Sections 399 and 402 of the Indian Penal Code, 1860 (IPC), as also provisions of the Arms Act and the Maharashtra Police Act.

3. The learned counsel for the applicant submits that since the applicant, in the present case, has suffered incarceration for more than six years and two months, while the offences, for which he is being prosecuted, provide for maximum sentence of imprisonment for a period between 7 years and 10 years, this Court may consider enlarging the applicant on bail on the ground of long period of incarceration already suffered.

4. The learned APP could not dispute the fact that the applicant has actually undergone incarceration for a period of more than 6 years and 2

months as he was arrested on 19.09.2018.

5. In such circumstances, without referring to the merits of the case, this Court is inclined to give benefit to the applicant of Section 479 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) equivalent to Section 436-A of the Code of Criminal Procedure, 1973 (Cr.P.C.). As per the said provision, if a person has undergone detention for a period, extending upto more than half of the maximum period of sentence specified for an offence under law, he has to be released on bail by the Court.

6. Apart from this, in a number of judgements, including the judgment in the case of *Javed Gulam Nabi Vs. State of Maharashtra and another*, **2024 SCC OnLine SC 1693**, the Supreme Court has clarified the position of law that right to speedy trial being a facet of right to life under Article 21 of the Constitution of India, the Constitutional Courts must exercise powers to enlarge accused under-trials on bail where they have already undergone long period of incarceration and there is remote possibility of the trial being completed within reasonable period of time.

7. In the present case, even the charge has not been framed, thereby indicating that there is no possibility of the trial being completed within reasonable period of time.

8. 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.I-63 of 2018 dated 20.03.2018 registered with Vartaknagar Police Station, District - Thane on furnishing P.R. Bond of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;

(B) The applicant shall appear before the trial Court, except

when exempted for reasons to be recorded in writing. He shall cooperate with the trial Court for expeditious disposal of the trial;

(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 number and residential address to the trial Court and update about the same, if there is any change.

9. 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.

10. The bail application stands disposed of accordingly.

(MANISH PITALE, J.)