

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4285 OF 2024

Sachin Divakar Pawar	...	Applicant
Vs.		
State of Maharashtra	...	Respondent

Mr. Amit Munde a/w Jai Vohra and Sunil Chavan for applicant.

Mr. Rutuja A. Ambekar, APP for Respondent-State.

CORAM : MANISH PITALE, J.
DATE : 26th NOVEMBER 2024

P.C. :

1. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant has approached this Court seeking bail as he was arrested on 08.12.2018 in connection with F.I.R. No.571 of 2018 dated 03.12.2018 registered at Pant Nagar Police Station, District- Mumbai for offences under Section 363 of the Indian Penal Code, 1860 (IPC). Subsequently, Sections 302, 364, 365, 394, 201, 120(B) read with 34 of the IPC were added.

3. This is a case of circumstantial evidence and the learned counsel for the applicant fairly stated that an application filed on behalf of the applicant for bail was dismissed on merits by an order dated 12.06.2023 passed by this Court (Coram: Smt. Anuja Prabhudessai, J.) in Bail Application No.1539 of 2022. In that light, the learned counsel for the applicant is not pressing the present application on merits.

4. The learned counsel for the applicant submits that the present

application is being pressed on the ground of long incarceration already suffered by the applicant and also by highlighting the fact that trial in the present case is not likely to be concluded within a reasonable period of time.

5. In support of the said contentions, the learned counsel for the applicant points out that the FIR was registered on 03.12.2018, the applicant was arrested on 08.12.2018 and charge-sheet was filed in the year 2019 itself. The charge could be framed after long period of time only on 09.05.2024.

6. It was submitted that although the Investigating Authority submitted a list of 204 witnesses to be examined during the course of trial, after framing of charge, it has been indicated that the prosecution would be examining 180 witnesses. Not a single witness has been examined till date and on this basis, it is claimed that the trial is not likely to be completed within a reasonable period of time. It is also submitted that the applicant had filed repeated applications before the trial court for speedy trial and it was also claimed that the delay was because the accused persons were not produced before the trial court. Reliance was placed on the law laid down by the Supreme Court about the power of Constitutional Courts to enlarge accused under trials on bail when they have suffered long incarceration and there is remote possibility of the trial being completed within a reasonable period of time.

7. On the other hand, the learned APP submits that the applicant does not have a case on merits to be enlarged on bail and attention of this Court has been invited the recent order of the trial court dated 18.09.2024, wherein it is recorded that the accused are partly to blame for the delay in progress of the trial. It is submitted that in such circumstances, considering the seriousness of the offences registered

against the accused persons including the applicant, this Court may dismiss the application and appropriate directions can be issued for expeditious disposal of the trial.

8. This Court has considered the rival submissions in the light of the documents placed on record. It is undisputed that the applicant has remained behind bars since 08.12.2018. This is for a period of almost 6 years pending trial. Although the charge-sheet was filed in the year 2019 itself, charge could be framed as recently as on 09.05.2024. It is matter of record that not a single witness has been examined. It is further undisputed that the charge-sheet gives a list of 204 witnesses and it is indicated by the prosecution that as many as 180 witnesses would be examined during the course of the trial. This obviously shows that the trial is not likely to be completed within a reasonable period of time. Considering the pressure of work on the trial courts, especially in Mumbai, it would be unreasonable to expect the trial court to take up each and every trial in a time bound manner.

9. Although it is sought to be indicated that the accused in the present case are partly to blame for delay in the proceedings before the trial court, the documents placed on record indicate that on a number of occasions, the accused themselves could not be produced before the trial court. It is also matter of record that the applicant had moved applications for speedy trial before the trial court and allegations were made against the prosecution for delay in the proceedings before the trial court.

10. An impression is gathered by this Court that perhaps due to extremely high work load on the trial court, the proceedings in the present case also have not progressed at an expeditious pace. Considering the number of witnesses to be examined by the prosecution, it is clear that the trial cannot be completed within a reasonable period of time.

11. In such circumstances, the law laid down by the Supreme Court does inure the benefit of the applicant. The Supreme Court in a recent judgment in the case of *Javed Gulam Nabi Shaikh vs. State of Maharashtra and another* (2024 SCC OnLine SC 1693) has taken into consideration series of judgments including judgments in the case of *Union of India vs. K. A. Najeeb* [(2021) 3 SCC 713] and *Satender Kumar Antil vs. Central Bureau of Investigation* [(2022) 10 SCC 51], reiterating the position of law that in such circumstances, considering the right of speedy trial as a facet or right to life, under Article 21 of the Constitution of India, the Constitutional Courts must exercise their power to enlarge such accused under trials on bail.

12. The applicant has no criminal antecedents and in the facts and circumstances recorded herein, this court is inclined to exercise its power as a Constitutional Court to enlarge the applicant on bail.

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

- (A) The applicant shall be released on bail in connection with F.I.R. No. 571 of 2018 dated 03.12.2018, registered at Pant Nagar Police Station, District- Mumbai, on furnishing P.R. Bond of Rs.50,000/- and one or two sureties in the like amount;
- (B) 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;
- (C) The applicant shall co-operate with the proceedings before the trial Court and he shall attend each and every date, unless specifically exempted by the trial Court;
- (E) Upon release, within one week, the applicant shall inform

the Investigating Officer as well as the Trial Court about his contact number and residential address and update the same in case of any change.

14. 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.

15. The application is disposed of.

(MANISH PITALE, J.)

Ajit Pathrikar