



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4861 OF 2024**

Ravi Renugopal Shetty	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Prashant Pandey with Mr. Dinesh Jodhwani, Ms. Ridhima Mangaonkar, Ms. Krishna Joshi, Mr. Pramod Sharma i/by W3 Legal LLP for Applicant.
Mr. A.A.Naik, APP for State.
PSI D.N.Ladse, Mulund Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 17 DECEMBER 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant who is arraigned in Sessions Case no.756 of 2020 arising out of C.R.No.528 of 2019 registered with Mulund Police Station for the offences punishable under Sections 302, 201, 364 read with Section 34 of the Indian Penal Code, 1860, has preferred this application to enlarge him on bail.
3. In fact, this is third application for bail. First bail application, being BA No.4278 of 2021, was dismissed as withdrawn. On 16 March 2023, this Court passed the following order :

- "1. Learned Counsel for the applicants after arguing the matter at length and after this court expressed disinclination to grant the relief, sought leave to withdraw the application. Leave granted.
2. The application is dismissed as withdrawn."

4. Evidently, the first application was withdrawn after the Court expressed its disinclination to grant relief.

5. In the second bail application i.e. BA No.327 of 2024, on 23 April 2024, a motion was made before the Court to withdraw that application as the trial had commenced and three witnesses had been examined. A prayer was, however, made for expediting the trial as the applicant has been in custody since 29 December 2019. The second bail application was, thus, disposed as withdrawn with a request to the learned Sessions Judge seized with Sessions Case No.756 of 2020 to make an endeavour to conclude the trial as expeditiously as possible and preferably within a period of six months from the date of communication of the said order. Liberty was granted to the applicant to revive the prayer for bail in the event the trial was not concluded within the said period. Availing the said liberty, the applicant has again approached this Court.

6. Mr. Pandey, learned Counsel for the Applicant, submitted that though the prosecution has examined as many as 18 witnesses, yet since the last couple of dates, there has not been any progress as no witness for prosecution was present. It was submitted that as the applicant has been in custody for more than five years, the applicant deserves to be enlarged on bail. Mr. Pandey placed reliance on a number of orders passed by the Supreme Court as well as this Court to bolster up the submission that long

period of incarceration without a possibility of conclusion of the trial, entitles the accused to be released on bail. Special emphasis was laid on the order passed by the Supreme Court in the case of **Paras Ram Vishnoi V/s. The Director, Central Bureau of Investigation**¹ whereby the Supreme Court granted bail to the appellant therein, who had been in custody for eight and half years, even though the prosecution evidence was over and the statement of the accused under Section 313 of Code of Criminal Procedure was recorded.

7. Reliance was also placed on an order dated 11 December 2024 passed by this Court in BA No.3893 of 2024 in the case of **Jagdish Kailash Shejave Dhananjay Shinde V/s. The State of Maharashtra** wherein after adverting to the aforesaid order, this Court was persuaded to exercise the discretion in favour of the applicant therein.

8. Learned APP resisted the prayer for bail. It was submitted that the prosecution has made an earnest endeavour to conclude the trial expeditiously. As many as 18 witnesses have been examined. The prosecution proposes to examine only 9 more witnesses. Thus, having regard to the gravity of the offences and the progress made in the trial, at this stage, the applicant may not be released on bail.

9. Evidently there has been a substantial progress in the trial. When the

¹ Criminal Appeal No.693 of 2021 dated 27 July 2021

second application for bail was withdrawn on 23 April 2024, the Court was informed that the prosecution had examined only three witnesses. In the intervening period, it appears, as many as 15 witnesses have been examined by the prosecution. It appears, the learned Additional Sessions Judge seized with Sessions Case No.756 of 2020 has made earnest endeavour to conclude the trial expeditiously.

10. There can be no quarrel with the proposition that a long period of incarceration without a prospect of expeditious conclusion of trial impairs the right of the accused to have a speedy trial which is a facet of the right to life and personal liberty guaranteed under Article 21 of the Constitution of India. By a catena of decisions, few of which were pressed into service by Mr. Pandey, it has been held that even the statutory restrictions in the matter of grant of bail like Section 21 of the Maharashtra Control of Organized Crime Act, 1999 and 37 of the Narcotic Drugs and Psychotropic Substances Act, 1985, melt down in the face of prolonged period of incarceration without a realistic prospect of conclusion of the trial. However, the principle cannot be applied de hors the facts of the case and the progress in the trial.

11. In the case at hand, this Court has shown its disinclination to entertain the prayer for bail having regard to the nature of the accusation, the gravity of the offences and the material pressed into service against the applicant. As many as 18 witnesses have been examined. At this stage, the endeavour of

Mr. Pandey to urge that the evidence of those witnesses, who have been examined till date, does not squarely incriminate the applicant, cannot be countenanced as there is a risk of expressing an opinion on the merits of the matter. It would be for the trial Court to evaluate the evidence and determine the guilt or otherwise of the applicant.

12. A useful reference in this context can be made to a recent order passed by the Supreme Court in the case of ***X vs. State of Rajasthan and anr.***² wherein the Supreme Court has cautioned against the grant of bail in serious offences like rape, murder and dacoity, where the trial has commenced. The observations in paragraph Nos.14 and 16 are material and, hence, extracted below :

“14. Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused.

15. Over a period of time, we have noticed two things, i.e. (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial Court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result in the

² SPL(Cri) No.13378/2024 dtd.25/11/2024.

conviction of the accused or acquittal of the accused. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed."

(emphasis supplied)

13. The aforesaid principle, I am mindful, may not govern a situation where the accused has been incarcerated for a long period, and there is no real prospect of conclusion of the trial within a reasonable period. But that does not appear to be the situation in the case at hand. As noted above, there has been a substantial progress in the trial and the prosecution is yet to examine 9 more witnesses. If the period of incarceration of the applicant is considered in the context of the accusation against the applicant and the gravity of the offences, in my considered view, the prosecution deserves an opportunity to expeditiously conclude the trial.

14. I am, therefore, not inclined to exercise discretion in favour of the applicant.

15. Hence, the following order :

ORDER

- (i) The Application stands rejected.
- (ii) By way of abundant caution, it is clarified that the observations

made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)