



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO.760 OF 2023

Mohd. Samir @ Shambhu Jamir Patel .Vs. State of Mah., through P.S.O., P.S.
Pachpaoli, Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri U.P. Dable, Advocate for applicant.

Shri B.M. Lonare, A.G.P. for non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 08/02/2024

1. This is a successive bail application filed by the applicant after rejection of the first application i.e. criminal application No.1101 of 2022. It is submitted that, despite the period of more than 15 months is lapsed there is no progress in the trial. However, despite the fact that, after filing of the charge-sheet on 01.11.2018, till date, only six witnesses have been examined and there are total 59 witnesses.

2. Shri Dable, learned counsel for the applicant submits that, if the confessional statement of the applicant recorded by the Police is considered, it is evident that, there is no direct involvement of the applicant in the alleged offence. Whereas, the allegation is of harbouring. It is therefore submitted that, since the applicant is in jail since 30.10.2020 his prayer may be considered for grant of bail.

3. On the other hand, learned APP strongly opposed the application.

4. After going through the charge-sheet, it is evident that, the muddemal clothes of accused, motorcycle, mobile and weapons were recovered from the place of the applicant and therefore, the charge against the applicant is that, he has harboured the co-accused.

5. It is further evident that, there are no allegations attributing any active role by the applicant in the commission of offence or presence at the spot at the time of incident. Hence, there is a reason to believe that the applicant is not involved in the alleged offence.

6. As far as apprehension that the applicant would commit similar offence if he is released on bail is concerned, considering the past history and criminal antecedents of the applicant, it is evident that, the applicant has not committed similar offence.

7. In the circumstances, as there is no possibility that, the applicant may commit similar offence if he released on bail, I am of the opinion that, though the learned APP strongly opposed the application, the applicant is entitled

for released on bail on certain conditions. Accordingly, I pass the following order :

- a) The criminal application is **allowed**.
- b) It is directed that the applicant shall be released on bail in Crime No.96 of 2018, registered with Police Station : Pachpaoli, District: Nagpur, for the offences punishable under Sections 3 (1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999 and under Section 212 of the Indian Penal Code, on furnishing P.R. Bond of Rs.50,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned Police Station on every 1st and 16th day of each month between 10.00 am to 12.00 noon till the culmination of the trial.
- d) The applicant shall not tamper with the prosecution witnesses.

The criminal application is **disposed of** accordingly.

JUDGE