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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3415 OF 2025

Firoz Abdul Razzak Khan @ Raju Batla	...Applicant
V/s.	
State of Maharashtra	...Respondent

Ms.Jagruti Mestry with Mr.Pratik Tomti for the Applicant.

Mr.S.S. Ghag, APP for the State – Respondent.

Mr.Sopan Wadkar, PSI (Pairavi), Sakinaka Police Station is present in Court.

CORAM : R.M. JOSHI, J.

DATE : 10TH MARCH, 2026.

P.C. :-

1. It is not a co-incidence that today three applications for bail came up for hearing before the Court, wherein accused had no case on merit to get bail but on account of failure on the part of Investigating Agency / prosecution to lead evidence before Trial Court without any justifiable reason , bail is sought by accused.

2. The present case is one of such case in which the

prosecution without any justification failed to lead evidence before the Trial Court for years together. Needless to say that on account of long incarceration the accused seeks and is entitled to a bail.

3. In the instant case, the charge has been framed in July, 2022. However, till date not a single witness has been examined by the prosecution before the Trial Court.

4. Learned counsel for the Applicant submits that apart from the merit of the case, on the ground of long incarceration, the Applicant is entitled for bail. She submits that there are inconsistencies in the statements of the informant and the alleged witnesses to the incident. By referring to the evidence with regard to CC TV footage collected during the investigation, it is contended that from the said CCTV footage, it cannot be said that the witnesses Anees and Firoz were present at the spot of incident in order to witness the same. She further drew the attention of the Court to the statement of first informant Riyaz recorded under Section 164 of Cr.P.C. wherein, he does not state to have witnessed the occurrence of the incident. On these

among other contentions, she prays that the Applicant is behind the bar for a period of over six years, he hence be enlarged on bail.

5. Learned APP opposed the application. It is his submission that there are statements of witnesses Anees and Firoz which show complicity of the Applicant in this crime. Learned APP however, was unable to give any plausible explanation as to the reason for which not a single witness has been examined for a period of more than three and half year after framing of the charge against the accused.

6. Apart from the fact that this is a case of unjustified long incarceration of the Applicant, even on merit of the case, there is substance in the contention of the learned counsel for the Applicant that there are material inconsistencies in the statement of the informant recorded under Sections 161 and 164 of Cr.P.C. Further learned counsel for the Applicant seems to be right when she argues that the so called statements of eye witnesses Anees and Firoz are not sufficient to prove the occurrence of the incident in view of the fact that in CC TV

footage, there presence has not been noted at the spot of the incident.

7. As observed herein above, in the instance case too, without any justification, the prosecution has not led any evidence in spite of framing of charge against the accused in July, 2022. In spite of this Court giving opportunity to the prosecution to explain the same, no explanation much less any plausible explanation is provided. It would not be out of context to rely upon judgment of Hon'ble Supreme Court in case of *Shailendra Kumar .vs. State of Bihar & Ors., AIR 2022 SC 270.* wherein it is held that presence of Investigating Officer is must in crime like murder and it is his duty to keep witnesses present. If there is failure on the part of Investigating Officer to remain present, it is a duty of the Trial Court to issue summons to him. The prosecution in this case without any plausible reason has failed to examine any witness and failed to perform its duty. The right of expeditious trial of a case is denied unjustly. It is also observed that in case there is strong evidence against accused disentitling them to get bail, Investigating Agency/

prosecution invariably fail to examine the witnesses in time and situation is created that the accused are required to be enlarged on bail for reason of long incarceration. Now time has come that the Court are required to ascertain such motives and in appropriate cases to take action against erring persons.

8. In view of the above discussion, the following order is passed :

ORDER:

- a). Thee Application stands allowed in connection with Crime No.1088 of 2019 registered with Sakinaka Police Station for the offence punishable under Sections 302, 506(2), of IPC 37(3) and 135 of Maharashtra Police Act.
- b). The Applicant be enlarged on bail on furnishing PR bond of Rs.15,000/- with one/two sureties in the like amount to the satisfaction of the Trial Court.
- c). The Applicant to attend all dates of hearing before the Trial Court unless exempted by passing specific order.
- d). The Applicant not to cause interference in the evidence of the prosecution in any manner whatsoever.

(R.M. JOSHI, J.)