



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.2244 OF 2023

Jahid alias Javed Liyakat Ansari .. Applicant

Versus

The State of Maharashtra .. Respondent

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Mr.Asif Naqvi with Amreen Shariff and Sana Lakhani for the Applicant.

Mr.S.R.Agarkar, A.P.P. for the State/Respondent.

Ms.Madhuri Gaikwad, PSI attached to Rabale MIDC Police Station, present.

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CORAM: BHARATI DANGRE, J.

DATED : 18th DECEMBER, 2023

P.C:-

1. As directed by the order dated 11/12/2023, Shri Amit M. Shete, District Judge-1 & Additional Sessions Judge & Special Judge (MCOB), Thane, has submitted his report through the Registrar (Judicial -I).

As expected, the report has enlisted number of reasons, as to why the trial is not yet concluded and the learned Judge has made reference to the roznama of the proceedings from 06/07/2022 and it reflect that from 13/06/2022, the sessions trial was listed under caption, 'for evidence'.

It is admitted in the report that the Accused was not produced either prior to 13/06/2022 or thereafter and he was

produced on 10/03/2023, but in view of the establishment of sessions division at Belapur, the sessions trial was transferred to Belapur on 06/04/2023. In the meantime, the trial got adjourned on eight dates and the roznama indicate that the Accused was not produced from Taloja jail, but this fact was not brought to the notice of the presiding officer.

This is the response to the observation made by me, that the judicial system has forgotten the Accused.

2. The learned District Judge has thereafter given a long explanation of the efforts taken by him to deal with the pending cases, as the Court was handling four police stations and also dealing with the cases of remand in MCOC, CBI and ACB, apart from the time bound/expedited trials.

In short, the explanation offered is, since the Court was busy in dealing with other cases, as they were directed to be expeditiously dealt with by the higher Courts, the case of the present Applicant was not taken up and was kept pending and for this inadvertence, a sincere and unconditional apology is tendered.

3. The apology, in whatever manner offered to this Court, in my opinion, is not of any succour to the Accused before me, who is incarcerated since 02/09/2018, when he was arrested by Rabale MIDC Police Station in connection with C.R.No.228 of 2018, for allegedly committing an offence under Section 302 of the Indian Penal Code.

On an earlier occasion i.e. on 06/07/2022, I had expressed my disinclination to entertain the application on perusal of the

material compiled in the charge-sheet and taking note of his incarceration since 2018, it was recorded that charge is now framed, but the trial has not commenced. A liberty was conferred upon the Applicant to approach this Court once again, if the trial does not commence within a period of one year.

Down the line, it is the end of the year 2023, but the position has not improved at all and the trial has not moved an inch ahead.

4. Though the material in the charge-sheet indicate the Applicant's active participation in the subject C.R., if the concerned Court on account of the reason that it was embroiled in several time-bound matters, was not able to take the trial of the Applicant any further, I am left with no other option than to secure his release on bail, as he cannot be incarcerated indefinitely as an under-trial prisoner and it is more than five years, he remained incarcerated without the trial.

Ultimately this is the only answer, which the judicial system can offer to an Accused, who is not produced on several dates and on account of transfer of trial from one Court to another though within the same District and on account of so called inadvertence, his production was not ensured. As a Constitutional Court, nonetheless the duty is cast upon this Court to ensure him his liberty, as speedy trial has been recognized as integral part under Article 21 of the Constitution of India. Hence, I deem it appropriate to release him on bail. He can of-course take consequence of the accusations faced by him in the charge-sheet, once the trial commence.

Hence, the following order.

: **ORDER** :

- (a) Application is allowed.
- (b) Applicant -Jahid alias Javed Liyakat Ansari shall be released on bail in connection with C.R.No.228 of 2018 registered with Rabale MIDC Police Station on furnishing P.R.Bond to the extent of Rs.25,000/- with one or more local sureties of the like amount.
- (c) The Applicant shall mark his attendance to the concerned police station on first Saturday of every month between 5.00 to 6.00 p.m., with a clear understanding that the Investigating Officer shall not retain him for more than 30 minutes in the police station.
- (d) On being released on bail, the Applicant shall furnish his contact number and the residential address to the Investigating Officer and shall keep him updated, in case of any change therein.
- (e) The Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court and he shall not tamper with the evidence, in any manner.

(SMT. BHARATI DANGRE, J.)