

MHNS070003702018



Sessions Case No. 16/2018

State

Vs

Vijay Shankar Tavare

**ORDER BELOW EXH. NO.8**

1. This is a bail application filed under section 436A of Cr. P. C. The accused is booked for the offence punishable u/secs. 420, 406, 409, 120B of the Indian Penal Code and u/sec. 3 r.w.4 of MPID Act.

2. Heard accused on VC. He submitted that he is not getting proper medical treatment in the jail. He also complained of ailments like high B.P., Sugar. He also submitted that the writ petition before the Hon'ble High Court is posted for hearing on 30.09.2022. He prayed for bail.

3. Heard Ld. APP. Shri. S. K. Sonawae. He submitted that the accused have filed applications on record at Exh.6, 7 to adjourn the proceeding and stay the matter till the order of clubbing is passed on their application. He submitted that there is no delay on the part of prosecution to proceed with the matter. Therefore, the accused is not entitled for the bail u/sec. 436A, Cr. P.C.

4. I have gone through the record and proceedings. The accused is arrested on 19.12.2017. The present offence under which the accused is prosecuted is not punishable with death punishment. Therefore, stay of prosecution has been called. As per explanation to section 436A in computing the period of detention under this section for grant of bail, the period of detention passed

due to delay in proceeding caused by the accused shall be excluded. In the reply the prosecution showed its readiness to proceed with the matter expeditiously. The accused has moved writ petition 554 of 2020 for clubbing of the matter under MPID. The accused at the time of framing of charge, the accused on VC made submissions that as their applications for clubbing of matters is pending before the Hon'ble High Court, hence, requested for not framing of charge in the matter. Taking the note of submissions in the roznama the charge has been framed. The accused filed an application (Exh.6) on 03.06.2022 to stay the matter till the order of clubbing the matters is passed by Hon'ble High Court. On 03.06.2022 they have filed one more application (Exh.7) requesting this court to stop the proceeding as their matter is pending before the Hon'ble High Court. The submissions made on VC by the accused are not the grounds available u/sec. 436A Cr. P.C., for the bail. The record and proceeding shows that the delay has been caused in the proceeding by the side of accused. Therefore, they can not take benefit of their own wrong as per explanation to section 436A, Cr. P.C. I find no merit in the application. In the result following order is passed.

**ORDER**

The application is rejected.

(D.D.Kurulkar)

Date: 21.09.2022

Additional Sessions Judge, Malegaon.

nha/-