

IN THE COURT OF SESSIONS AT YAVATMAL

S.T. No.62/2021

CNR No.MHYA010011142021

State Vs. Rviraj Chaudhari

Order Below Exh.17

[Passed on 21st day of June 2023]

[Dictated and Pronounced in Open Court]

1. The present application is preferred by the applicant/accused for regular bail on the ground of change in circumstances more particularly the progress in the trial is not found in-spite of lapse of two and half months i.e. from the date of rejecting earlier bail application.
2. The prosecution objected the application by filing say vide Exh.18 on the ground that the offence is serious one the prosecution has taken sincere efforts, but due to non-receipt of Muddemal Property the trial could not commenced and which is beyond control of prosecution. So also there is no substantive change in circumstances in which earlier bail application was rejected.
3. Heard learned advocate Mr Bhagat, holding for Mr S. M. Ali for applicant/accused and learned A.P.P. Mr M.S. Gangalwar, for prosecution at length.
4. On perusal of bail application, say of prosecution, and after considering over all submissions of both side advocates the following points arise for determination of this Court, on which the Court answer thereon with reasons as follows :

Sr. No.	Points	Findings
1.	Whether the applicant/accused prove case for grant of bail on the ground that there is no substantive progress in the trial in spite of expiry of two months ?	:: In the affirmative subject to conditions.
2.	What order ?	:: As per final order.

REASONS

As to point No.1 :-

5. The applicant came with a case that the Court observed that two months period is required for substantive progress in the trial for the prosecution while rejection of earlier bail application and there is no guarantee when the trial will commence and as the property is yet to be received no fixed date for receipt of property is scheduled.

It is further case of applicant he is behind bars since 10/03/2021 till today and may remain behind bars for undetermined period. There is no guarantee when trial will commence and he is ready to abide each and every condition.

6. On perusal of Roznama it is observed that earlier bail application is rejected by this Court. It is also observed that the trial could not commence for want of receipt of property in the present trial. It is also observed that accused is behind bars since 10/03/2021 and prosecution has taken efforts for achievement of commencement of trial. In spite of that prosecution could not commence the evidence in the present case for want of receipt of property.

7. No doubt, the earlier bail application was rejected by this Court and the other points of rejection of bail application remained unchanged, but at the same time the trial could not commence is the fact which cannot be overlooked as the personal liberty of a person is a fundamental right guaranteed under the constitution.
8. The prosecution though put up a case that sincere efforts were taken by the prosecution but not come with a concrete case that when the property will be received from FSL and also not arranged a special messenger to bring the property from FSL Amravati to Court. Similarly, the prosecution cannot say with confidence when the property will reach, then the accused cannot be detained furthermore in jail for an indefinite period without proving his guilt and therefore, the said ground is a sufficient circumstance which makes the applicant's case for grant of bail. Hence, Court **answer point No.1 in affirmative subject to conditions put by the Court.**

As to point No.2 :-

9. As the Court concluded that due to probable delay in commencement of trial and fear of prosecution or tampering of evidence which can be answered by way of certain directions, so that the applicant is required to be released on execution of a bond of Rs.50,000/ (Rs. Fifty thousand) with one solvent surety, on conditions that he shall not contact any of the witnesses by any means and shall not tamper with them, till the conclusion of trial, he shall not enter in the vicinity of the area of residence of the informant and other connecting witnesses till

conclusion of trial, applicant shall furnish updated addresses and mobile numbers of two close relatives excluding family members, and shall furnish his permanent and temporary addresses with documentary proof and shall inform the court in respect of change of his address, while releasing on bail in the interest of justice. Hence the order :

ORDER

- 1) The application is allowed.
- 2) The applicant/accused Raviraj Ramesh Choudhari, be released on bail in Crime No.226/2021, registered in Police Station Awadhootwadi, Yavatmal under Section 302 of the Indian Penal Code on executing Bond of Rs.50,000/- (Rs. Fifty Thousand only) with one solvent surety in the like amount on following conditions :-
 - a) The applicant/accused shall not contact any of the witnesses by any means and shall not tamper evidence of prosecution.
 - b) The applicant shall not enter in the vicinity of area of residence of informant and other connecting witnesses till conclusion of trial.
 - c) The applicant/accused shall furnish updated addresses and mobile numbers of two close relatives excluding family members.
 - d) The applicant/accused shall furnish his permanent and temporary addresses with documentary proof and shall inform the court in respect of change of his address.
 - (e) The breach of any of the condition will lead to ground for cancellation of bail.

Accordingly, application is disposed off.

Dated :21/06/2023.

(S.V. Hande)
Sessions Judge, Yavatmal.
JO Code MH02237

