

**S.T.No.09/2022,
State Vs. Golu and Oth..**

**ORDER PASSED BELOW BAIL APPLICATION
EXHIBIT-50
(Date: 18.10.2024)**

This application has been filed by the accused Someshwar Kawale for grant of bail in the instant trial on the ground that no any substantial progress has been made in the Trial after passing of the order on 20.12.2022 by Hon'ble High Court in bail application vide Criminal Application [BA] No.1274 of 2022 moved by co-accused Golu Wadaskar.

2. Heard learned advocate for the accused Mr. V.R. Katkamwar and learned APP Mr. R.D.More. Perused the application, say given by A.P.P today and the entire record of the trial including the charge-sheet.

3. Considering the rival submissions, it appears that after rejection of bail on merits by the Additional Sessions Court, the applicant/accused has moved Hon'ble High Court for bail, but his bail came to be rejected there also. It further appears that he has filed this bail application in view of order passed in the bail application of co-accused Golu on 20.12.2022 by Hon'ble High Court in Criminal Application [BA] No.1274 of 2022.

4. It further appears that, as Hon'ble High Court is not inclined to allow this application of co-accused Golu, on instructions the learned Advocate for the co-accused Golu sought permission to withdraw the bail application and sought liberty to file a fresh bail application in case there is no progress in the trial in next one year. Accordingly, the permission is given by the Hon'ble High Court to co-accused Golu withdraw the bail application to move afresh, if there is no progress in the trial in the next one year. Thus, the criminal application i.e. bail application of the of co-accused Golu is dispose of as withdrawn by the Hon'ble High Court.

5. Further it appears that, there is no application moved to the Hon'ble High Court after passing order on 20.12.2022 by this applicant or co-accused. It further appears that on the sole contention that there is no progress in the trial, this application has been moved by the applicant. Perusal of the record further shows that, my Learned predecessor has framed the charge against this applicant and other accused on 15.03.2023. It further appears that, matter was kept for compliance i.e. to deposit muddemal including Electronic Record and for this, letters have been issued by this Court to I.O and to C.F.S.L., Amaravati to deposit muddemal including Electronic Record after examining it at its earliest. The responses from the concern P.S.O and C.F.S.L.Amaravati

to directions given by this Court from time to time are filed on record. C.F.S.L. Amaravati by their responses on 31.07.2023, 05.09.2023 and 08.08.2023 informed that analysis of muddemal has been taken on priority. According to prosecution story analysis of muddemal including Electronic Record has its own relevance. As no muddemal including Electronic Record is received by C.F.S.L., Amaravati, it appears that prosecution has not adduced their evidence.

6. It further appears that on 10.01.2024 prosecution has examined PW-1 and on 03.02.2024 prosecution examined PW-2 and PW-3 through Special A.P.P. Shri. Kakade. Thereafter A.P.P. Kakade has not examined any witness and on 08.12.2024 by filing copy of E-mail and by filing pursis informed the Court that he has resigned from the case as Special A.P.P and sent E-mail on 07.05.2024 to Chief Secretary, Law and Judicial Department (Maharashtra). He also informed by this pursis that he has handed over the record to the office of A.P.P. Thus, as Special A.P.P has withdrawn his power, this Court by passing order on Exhibit-01 on 13.05.2024 issued notice to the complainant to clarify the position of prosecutor in view of pursis filed by Special A.P.P. Shri. Kakde. The complainant appeared and filed application to grant time to engage another Special A.P.P. By passing order on Exhibit-01 on 11.07.2024, this Court has issued

the notice thereby informing to make necessary arrangement to conduct the trial of any learned A.P.P of their office so that trial would be proceeded further. Also on 02.08.2024 by passing order below Exhibit-01 D.G.P Yavatmal is directed to submit trial programme and accordingly to issue letter to D.G.P Yavatmal and A.P.P office, Kelapur. On 25.07.2024 D.G.P, Office, Yavatmal has issued the letter thereby appointing A.P.P Shri. R.D.More as Prosecutor to conduct this trial. Thereafter Shri. R.D.More, appeared and since 30.08.2024 till date examined three witnesses. Thus, till date total six witnesses have been examined by the prosecution.

7. Learned A.P.P Shri. More is ready to expedite the trial. For the aforesaid reasons and circumstances, it appears that the trial got somewhat delayed by the prosecution. No doubt, fair, expedite and just trial is a legal right of the accused. Considering the nature of the offence and material available against this applicant earlier bail application is rejected on merits by this Court and Hon'ble High Court. Applicant has filed this bail application only on the sole ground that there is no progress in the trial after passing of order of Hon'ble High Court in the bail application of co-accused Golu as mentioned above. This Court always make its endeavor to give its highest priority for the trial of under trial prisoners. In this trial this Court has taken taken

consistent efforts to expedite the trial. Considering the period lapsed in the trial till date and status of applicant as A.P.P, it is necessary to give specific time limit to the prosecution to finish the evidence of all witnesses. Thus, considering all facts and circumstances and in view of above discussion, it is just, proper, appropriate and reasonable to fix the time limit of six months from today for the prosecution to adduce evidence of all witnesses. This would serve the purpose of expeditious trial and also served to protect to interest of accused of expeditious trial. If, prosecution would fail to examine all witnesses within six months from today, the applicant is having liberty to file bail application afresh. Considering overall facts, it cannot be said that till date there is no progress in the trial in view of above discussion. Hence, as a result, this application is liable to be rejected by issuing certain direction of time limit to examine all witnesses to the prosecution. Thus, the following order.-

ORDER

1. Application Exhibit 50 stands **rejected**.
2. Prosecution is directed to adduce evidence of all witnesses within six months from today thereby granting six months time from today to adduce its entire evidence. If, prosecution would fail to examine all witnesses within six months from today, applicant is at liberty to

move his bail application afresh.

- 3 Both prosecution and defence to take note of.
(Dictated and pronounced in open court
today)

Date: 18-10-2024. **(A.M. Deshmukh)**
Additional Sessions Judge-2,
Kelapur