

though the charge has been framed long back on 28.03.2022.

3. Learned counsel for the petitioner has further taken the ground of long incarceration as he is in custody since 28.12.2021 and there is no likelihood of completion of trial in near future. Submission has been made that since the charge-sheet has been submitted that charge has also been framed, as such there is no chance of tampering with the evidence and since the petitioner is an Officer in the bank, as such there is no chance of his absconding.
4. While on the other hand, learned counsel appearing for the Opp. Party-CBI has opposed the prayer for bail so far the issue on merit is concerned, however, he is fair enough to admit the fact that out of the 59 charge-sheeted witnesses only 9 witnesses has been examined till date and further he has no instruction with respect to pruning of the number of the witnesses.
5. This Court has heard learned counsel for the parties and gone through the materials available on record.
6. The ground has been taken that there is no substantial progress in the trial as out of the 59 witnesses only 9 witnesses has been examined though the charge has been framed long back on 28.03.2022 and further petitioner has taken the ground of long incarceration as

he is in custody since 28.12.2021 and there is no likelihood of completion of trial in near future. Therefore, prayer has been made that as per law laid down in the case of ***Union of India Vrs. K.A. Najeeb***, reported in ***[(2021) 3 SCC 713]***, the petitioner may be enlarged on bail.

7. This Court in order to appreciate the aforesaid ground deems it fit and proper to refer the relevant paragraph of judgment rendered in ***Union of India vs. K.A. Najeeb (supra)***, relevant paragraph of which is quoted as under:

“17. It is thus clear to us that the presence of statutory restrictions like Section 43-D(5) of the UAPA per se does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a statute as well as the powers exercisable under constitutional jurisdiction can be well harmonised. Whereas at commencement of proceedings, the courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safeguard against the possibility of provisions like Section 43-D(5) of the UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.

18. Adverting to the case at hand, we are conscious of the fact that the charges levelled against the respondent are grave and a serious threat to societal harmony. Had it been a case at the threshold, we would have outrightly turned down the respondent's

prayer. However, keeping in mind the length of the period spent by him in custody and the unlikelihood of the trial being completed anytime soon, the High Court appears to have been left with no other option except to grant bail. An attempt has been made to strike a balance between the appellant's right to lead evidence of its choice and establish the charges beyond any doubt and simultaneously the respondent's rights guaranteed under Part III of our Constitution have been well protected."

8. It is evident from the factual aspect that in the said case altogether 276 charge-sheeted witnesses were to be examined and on the pin-pointed question by the Hon'ble Apex Court, the investigating agency has submitted that there is no question of reducing the number of charge-sheeted witnesses and in view thereof and considering the period of custody, i.e., more than 5 and half years and also taking into consideration the spirit of Article 21 of the Constitution of India the Hon'ble Apex Court has not interfered with the order by which the bail was granted to respondent-accused.
9. This Court considering the aforesaid fact as also considering the fact that out of the 59 charge-sheeted witnesses only 9 witnesses have been examined though charge has been framed long back on 28.03.2022, as such even after lapse of 3 and ½ years only 9 witnesses have been examined. Hence, there is no likelihood of early conclusion of the trial rather if proportion of

examination of witnesses will be taken into consideration then perhaps the trial will take more than one and half decade, if the trial is not expedited.

10. This Court considering the aforesaid fact and the law laid down in the case of ***Union of India vs. K.A. Najeeb (supra)*** and taking into consideration the period of custody, is of the view that the instant bail application deserves to be allowed.
11. Accordingly, the instant bail application stands allowed.
12. In consequence thereof, the petitioner, named above, is directed to be released on bail on furnishing bail bond of ***Rs.10,000/-(Rupees Ten Thousand)*** with two sureties of the like amount each to the satisfaction of learned learned Spl. Judge, CBI-cum-Additional Sessions Judge-II, Dhanbad in connection with R.C. Case No. 7(A)/2016 (D), subject to the condition that the petitioner shall co-operate in the trial, failing which, the learned trial court is at liberty to take appropriate steps in accordance with law.

(Sujit Narayan Prasad, J.)

Alankar/-