



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1836 OF 2023

Tribhuvansingh Raghunath Yadav .. Applicant
 Versus
 The State of Maharashtra .. Respondent

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Mr. Vinod Kashid for the Applicant.
 Mr. S.R. Agarkar, APP for the State.
 Mr. Satyavrat Joshi, Amicus Curie present.
 Mr. Ahirrao, the Superintendent, Arthur Road Central Prison,
 Mumbai.
 Mr. B. Sawant, P.I. (retired).
 Mr. R.N. Loke, P.S.I. Sakinaka (Pairavi Officer).

CORAM: BHARATI DANGRE, J.
DATED : 13th DECEMBER 2023

P.C:-

1 The learned APP Mr. Agarkar, has placed on record the Government Resolution dated 28/11/2023, issued by the Home Department, indicating that a sum of Rs. 5,33,16,753/- is sanctioned by the State Government for installation of the Video Conferencing facility and for purchase of the necessary infrastructure, which would include the cameras, amplifiers, audio interface, cables, etc along with its installation.

Let the GR be brought to the notice of learned Public Prosecutor as well as learned Advocate General, so as to ensure that the amount sanctioned is expended before 31/03/2024.

2 The learned Amicus Curie, Mr. Joshi state that he has visited the Thane Jail and he expresses his satisfaction over the facilities that are made available in the said jail for production of the accused persons in distinct courts. However, he would submit that he

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is in the process of preparing the report along with Mr. Nakhwa, learned APP and he shall place it on or before 20/12/2023.

3 Coming to the merits of the Bail Application, learned counsel Mr. Kashid is perfectly justified in relying upon subsection (6) of Section 437 of the Code of Criminal Procedure which read thus:

“(6) If, in any case triable by a Magistrate, the trial of a person accused of any non-bailable offence is not concluded within a period of sixty days from the first date fixed for taking evidence in the case, such person shall, if he is in custody during the whole of the said period, be released on bail to the satisfaction of the Magistrate, unless for reasons to be recorded in writing, the Magistrate otherwise directs.”

In the wake of the aforesaid provision, it is the submission of the learned counsel that on the charge having been framed on 28/08/2023, the trial was fixed for recording of evidence and the first witness of the prosecution is in the dock.

4 Relying upon the above provision, it is open for the accused to approach the Magistrate to secure his release on bail, as the trial is not concluded within period of 60 days from the first date of taking evidence in the case and if the accused is in custody during the whole of the said period. It is ultimately for the Magistrate to release him on bail, to his satisfaction unless for reasons recorded by him in writing, he is of the opinion that he do not deserve such a release.

5 In the wake of the aforesaid provision since the power is to be exercised by the Magistrate, Mr. Kashid seek permission to withdraw the application with liberty to secure his release on bail with the aid of sub-section (6) of Section 437 of Cr.P.C.

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Needless to state that upon an appropriate order being passed, he is at liberty to take further steps.

Bail Application No.1836 of 2023 is disposed off, as far as applicant is concerned.

However, since the orders which are passed by me appointing the Amicus pertain to the larger issue of production of the under-trial prisoners before the appropriate courts at various stages, the Application is now titled as '*suo motu* application' and the registry shall allot a new number to the same.

Upon the application being registered as *suo motu* application, the appearance of Mr. Satyavrat Joshi as Amicus Curie along with APP Mr. Nakhwa shall be notified on the board, so as to maintain the continuity of the proceedings.

(SMT. BHARATI DANGRE, J.)