

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

903 BAIL APPLICATION NO.629 OF 2022

SACHIN DHARMA SAWANT
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr. Wagh Mukulanand R.
APP for Respondent-State : Mr. G. O. Wattamwar.
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CORAM : S. G. MEHARE, J.
DATE : 30.06.2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. The innovative arguments have been advanced by the learned counsel Mr. Wagh for the applicant that when the earlier order passed by this Court in Bail Application No.267 of 2021, the documents which were part of the charge sheet were not pointed out to the Court. Therefore, this is a change in circumstance.
3. Learned APP has pointed out that the charge sheet was filed on 05.11.2019, and a copy of the charge sheet was supplied to the applicant. When the order dated 26.08.2021 was passed, the Court considered the entire papers. Even then,

the learned counsel, Mr. Wagh tried to point out to this Court that there is variance in the statement of witness Govind Kende and one Gajanan More in the contents of the FIR and there is no change in circumstances.

4. The applicant had the opportunity to refer to each document from the charge sheet when this Court heard the earlier bail application. The Court did not deny the opportunity to the applicant to point out everything when the matter was heard on merits after filing the charge sheet. However, the applicant again approached this Court by filing another Bail Application No.86 of 2022. The said application was decided on 04.03.2022. The said Bail Application was disposed of as withdrawn. The Court had specifically observed in the said order that after this Court passed the order in Bail Application No.267 of 2021, dated 26.08.2021, the applicant had directly approached this Court without getting the remedy before the Sessions Court exhausted. The Court granted leave to withdraw with liberty to approach the Trial Court for regular bail. This order was clearly under the legal right of the accused to file a bail application under the change in circumstances. The applicant approached the learned Sessions Court. The learned Sessions Court rejected the application. Hence, this

application.

5. Arguing on the order passed by the learned Sessions Court, learned counsel Mr. Wagh pointed out that though the Court has expressed a view that the matter may be disposed of by the end of May 2022. However, there was no progress. Indirectly he tried to blame the Court for not disposing of the trial as expressed by the Court. The trial is not disposed of in time as expressed by the Court. Hence, the applicant is entitled to bail as he has been languishing in jail for over two and half years.

6. Learned APP further pointed out that in order of this Court dated 07.08.2020 passed in Bail Application No.260 of 2020, the liberty was granted to the applicant to file an application for expediting the hearing of the case.

7. Even after the order dated 07.08.2020, this Court had subsequently considered the Bail Application after filing the charge sheet on merit and passed the order rejecting the bail application on 26.08.2021. The entire approach of the applicant appears that he wanted to have bail anyhow. No doubt, he has a right to claim the bail, but his claim must be within the four corners of the law. The burden was on the applicant to satisfy the Court that after deciding the earlier Bail

Application after filing the charge sheet on merit, there were changes in circumstances that may entitle him to release on bail. After the earlier order dated 26.08.2021 of this Court, the applicant has failed to point out the change in circumstances. Whatever the points raised is absolutely not the change in circumstances. The material the applicant wanted to show was part of the charge sheet.

8. Since there is no change in circumstance, the application stands dismissed.

(S. G. MEHARE, J.)

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vmk/-