

Siddhant @ Sidharth Balu Taktode
v.
The State of Maharashtra and Another
(Criminal Appeal No. 5438 of 2024)
18 December 2024
[B.R. Gavai* and K.V. Viswanathan, JJ.]

Issue for Consideration

In six years, out of 102 dates, on most of the dates the appellant-accused was not produced before the Court either physically or virtually. Prolonged incarceration. Bail rejected by High Court.

Headnotes[†]

Maharashtra Control of Organised Crime Act, 1999 – Trial prolonged on account of non-production of the appellant-accused – Appellant incarcerated for approximately five years – If entitled to bail:

Held: Yes – Prolonged incarceration without the accused being made to face the trial would result in forcing him to face the sentence without undergoing the trial – Right to speedy trial is also one of the facets of the rights flowing from Articles 19 and 21 of the Constitution of India – Charges not framed in the cases registered prior to the registration of the present case – This is a very sorry state of affairs – If an accused is incarcerated for a period of approximately five years without even framing of charges, leave aside the right of speedy trial being affected, it would amount to imposing sentence without trial – Such a prolonged delay is also not in the interest of the rights of the victim – Impugned order quashed and set aside – Appellant granted bail, stringent conditions imposed – Constitution of India – Articles 21, 19. [Paras 10, 9, 11, 12]

Directions by Supreme Court – Trials prolonged on the ground of non-production of the accused persons – Deprecated:

Held: A mechanism to be evolved to ensure that the accused are produced before the Trial Judge either physically or virtually on every date and the trial is not permitted to be prolonged on the ground of non-production of the accused persons – Copy of this

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order to be forwarded to the Registrar General of the High Court of Judicature at Bombay; Secretary, Home, State of Maharashtra and Secretary, Law and Justice, State of Maharashtra. [Para 17]

Case Law Cited

Javed Gulam Nabi Shaikh v. State of Maharashtra and Another, 2024 INSC 645 : [2024] 7 SCR 992 : (2024) 9 SCC 813; State of Maharashtra v. Vishwnath Maranna Shetty, 2012 INSC 494 : [2012] 9 SCR 873 : (2012) 10 SCC 561; Manish Sisodia v. Directorate of Enforcement, 2024 INSC 595 : [2024] 8 SCR 1061 : 2024 SCC OnLine SC 1920; Kalvakuntla Kavitha v. Directorate of Enforcement, 2024 INSC 632 : [2024] 8 SCR 717 : 2024 SCC OnLine SC 2269 – referred to.

List of Acts

Maharashtra Control of Organised Crime Act, 1999; Constitution of India.

List of Keywords

Trial prolonged; Non-production of the accused; Bail; Prolonged incarceration; Prolonged delay; Sentence without the trial; Right to speedy trial; Articles 19 and 21 of the Constitution of India; Charges not framed; Sorry state of affairs; Rights of the victim; Stringent conditions; Physically; Virtually.

Case Arising From

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 5438 of 2024

From the Judgment and Order dated 29.07.2024 of the High Court of Judicature at Bombay in CRLA No. 298 of 2024

Appearances for Parties

Anand Dilip Landge, Sandip Magar, Kalyan Landge, Mrs. Sangeeta S Pahune Patil, Ms. Revati P. Kharde, Sumit Kumar, Advs. for the Appellant.

Varad Kilor, Aaditya Aniruddha Pande, Siddharth Dharmadhikari, Sourav Singh, Ms. Anagha S. Desai, Satyajit A. Desai, Siddharth Gautam, Abhinav K. Mutyalwar, Sachin Singh, Preetraj R. Dhok, Ananya Thapliyal, Advs. for the Respondents.

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Judgment / Order of the Supreme Court

Judgment

B.R. Gavai, J.

1. Leave granted.
2. The present appeal challenges the order passed by the learned Single Judge of the High Court of Judicature at Bombay in Criminal Appeal No.298 of 2024, vide which the appeal filed by the appellant herein challenging the order passed by the Additional Special Judge (M.C.O.C. Act), Pune (hereinafter referred to as ‘Special Judge’), rejecting the application for bail filed by the appellant.
3. Shri Anand Dilip Landge, learned counsel appearing for the appellant submits that the learned Single Judge of the High Court as well as the learned Special Judge have grossly erred in rejecting the application filed by the appellant. It is submitted that relying solely on one criminal antecedent, the provisions of Maharashtra Control of Organised Crime Act, 1999 (for short, ‘the said Act’) have been invoked against the appellant herein. Relying on certain photographs, the learned counsel for the appellant submits that the appellant was not present at the place of the incident, inasmuch as he was 26 kms., away from the place where the incident occurred. The learned counsel for the appellant further submits that when the appellant was arrested, he was 21 years of age and after approximately five years of incarceration, he is now 26 years of age. He, therefore, submits that the present appeal deserves to be allowed and the appellant deserves to be enlarged on bail.
4. The appeal is vehemently opposed by Mr. Varad Kilor, learned counsel appearing for the State and Smt. Anagha S. Desai, learned counsel appearing for the complainant.
5. It is submitted by the learned counsel appearing for the State as well as for the complainant that the learned Single Judge of the High Court, by an elaborate order, rejected the appeal of the appellant herein. It is submitted that the appellant is a part of a gang which has caused terror in the area and is indulging in criminal activities. Smt. Anagha S. Desai, learned counsel appearing for the complainant submits that the learned Single Judge has rightly rejected the reliance

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sought to be placed by the appellant on the case of Javed Gulam Nabi Shaikh v. State of Maharashtra and Another.¹ She therefore submits that no interference is warranted in the present appeal.

6. At the outset, we may state that the learned Single Judge by an elaborate and well reasoned order rejected the appeal of the appellant herein.
7. We, therefore, find no error in the reasoning adopted by the learned Single Judge, inasmuch as the learned Single Judge has relied on the judgment of this Court in the case of State of Maharashtra v. Vishwnath Maranna Shetty.²
8. A perusal of the judgment of the learned Single Judge would reveal that the learned Judge has basically rejected the appeal on the ground that the twin conditions as required under the provisions of the said Act i.e. (i) Satisfaction of the Court that there are reasonable grounds for believing that the accused is not guilty of the alleged offence; and (ii) He/she is not likely to commit any offence while on bail. While doing so, the learned Judge has given elaborate reasonings and has held that the appellant is not entitled to grant of bail.
9. However, it is to be noted that this Court in the case of Manish Sisodia v. Directorate of Enforcement,³ while considering the twin conditions, as applicable under the provisions of Prevention of Money Laundering Act, 2002 has held that prolonged incarceration without the accused being made to face the trial would result in forcing him to face the sentence without undergoing the trial. In the said case of Manish Sisodia (supra), the Court has also held that the right to speedy trial is also one of the facets of the rights flowing from Articles 19 and 21 of the Constitution of India. The said judgment of this Court in the case of Manish Sisodia (supra), has been constantly followed in various other judgments including the case of Kalvakuntla Kavitha v. Directorate of Enforcement.⁴
10. The material placed on record would reveal that for a period of the last six years, out of 102 dates, the accused has not been produced

1 2024 INSC 645 : [2024] 7 SCR 992 : (2024) 9 SCC 813

2 2012 INSC 494 : [2012] 9 SCR 873 : (2012) 10 SCC 561

3 2024 INSC 595 : [2024] 8 SCR 1061 : 2024 SCC OnLine SC 1920 :

4 2024 INSC 632 : [2024] 8 SCR 717 : 2024 SCC OnLine SC 2269

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before the Court either physically or through virtual mode on most of the dates. On the last date, we had put a query to the learned counsel appearing for the State as to why the charges were not framed as of date in this case. Shri Kilor fairly states that the charges have not been framed in the cases which are registered prior to the registration of the present case. We may say with anguish that this is a very sorry state of affairs. If an accused is incarcerated for a period of approximately five years without even framing of charges, leave aside the right of speedy trial being affected, it would amount to imposing sentence without trial. In our view, such a prolonged delay is also not in the interest of the rights of the victim.

11. We are, therefore, inclined to allow the appeal. The order passed by the Special Court dated 02.02.2024 and the impugned order of the learned Single Judge dated 29.07.2024 are quashed and set aside.
12. In order to protect the interest of the prosecution as well as the victim, we are inclined to impose certain stringent conditions on the appellant.
13. The appellant is directed to be released on bail on the following terms and conditions:-
 - (i) The appellant shall execute a bonds in the sum of Rs.50,000/- with one or more sureties in the like amount.
 - (ii) The appellant shall not enter the area of Akluj Tehsil during the trial.
 - (iii) The appellant shall intimate his place of residence to the Trial Court as well as to the Police Station within whose jurisdiction he would reside.
 - (iv) The appellant shall continue to appear before the learned Special Judge on every date regularly.
14. The appeal is, accordingly, disposed of.
15. It is pertinent to mention that during the hearing of the present appeal, as already discussed above, a sorry state of affairs is being depicted. The trial is being prolonged on the ground that the appellant is not produced before the Trial Judge either physically or virtually. We are informed that this is not a solitary case but in many cases such a difficulty arises.

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16. We, therefore, direct the Registrar General of the High Court of Judicature at Bombay, Secretary, Home, State of Maharashtra and Secretary, Law and Justice, State of Maharashtra to sit together and evolve a mechanism to ensure that the accused are produced before the Trial Judge either physically or virtually on every date and the trial is not permitted to be prolonged on the ground of non-production of the accused persons.
17. A copy of this order be forwarded to the Registrar General of the High Court of Judicature at Bombay, Secretary, Home, State of Maharashtra and Secretary, Law and Justice, State of Maharashtra forthwith for necessary action.
18. Pending application(s), if any, shall stand disposed of.

Result of the case: Appeal allowed.

[†]Headnotes prepared by: Divya Pandey