

ITEM NO.5

COURT NO.3

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s). 13755/2023

(Arising out of impugned final judgment and order dated 30-03-2023 in CRLBA No. 2222/2022 passed by the High Court of Judicature at Bombay)

AMOL VITTHAL VAHILE

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA

Respondent(s)

(IA No. 211390/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 211392/2023 - EXEMPTION FROM FILING O.T. IA No. 211393/2023 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 29-01-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) Mr. Prashant Shrikant Kenjale, AOR

For Respondent(s) Mr. Aaditya Aniruddha Pande, AOR
Mr. Siddharth Dharmadhikari, Adv.
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
Ms. Raavi Sharma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. By the impugned order, the learned Single Judge of the High Court has observed thus:-

"...Be that as it may, as the applicant is in jail for

about 7½ years, the applicant is permitted to file application for bail before the trial Court/Sessions Court. The application is disposed of.”

3. On an earlier occasion the petitioner herein approached the High Court by filing Bail Application No.1248 of 2020. However, it was withdrawn on 27.04.2022.

4. When the petitioner applied for bail on merits and also on the ground that he had been incarcerated in jail for seven and a half years, the approach of the High Court in only permitting him to file an application for bail before the Trial Court/Sessions Court and not deciding the prayer for bail on merits, in our view, would amount to non-exercise of jurisdiction vested in it.

5. The petitioner had been languishing in prison for seven and a half years at the time on which the order was passed by the learned Single Judge and by now he has suffered custody of more than eight years, the High Court rather than asking the petitioner to take another round of litigation ought to have decided the matter on merits.

6. In our view, the approach of the High Court was not in accordance with the sanctity has been given to personal liberty in catena of judgments.

7. Taking into consideration that the petitioner has been incarcerated in jail for a period of eight years the impugned order is quashed and set aside. Crl. Bail Application No.2222/2022 is restored to the file of the High Court with a request to decide the matter on merits within a period of two weeks from today.

8. List this matter on 16.02.2024.

(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)