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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3649 OF 2026

Deepak Pandurang Dhavale

.. Applicant

Versus

State of Maharashtra

.. Respondent

-
- Mr. Satyavrat Joshi i/b. Indrayanee Pandit, Advocate for Applicant.
 - Mr. Yogesh Nakhwa, APP for Respondent – State.
 - Prashant S. Diwate - API Shirur Police Station, Pune.
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 30, 2026.

P.C.:

1. Heard Mr. Joshi, learned Advocate for Applicants and Mr. Nakhwa, learned APP for Respondent – State.

2. This is an Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') seeking bail in connection with C.R. No.407 of 2026 registered with Shirur Police Station, Pune for offences punishable under Section 302, 323, 324, 504, 506 and 34 of the Indian Penal Code, 1860 and Sections 3 and 25 of the Arms Act, 1959. First Information Report is filed on and Applicant came to be arrested on 08.06.2022.

3. Applicant is arraigned as Accused No.1 in present crime registered on 07.06.2022. He is arrested on 08.06.2022. He is accused

to have committed the murder of his wife. The other injured victim is his father-in-law. Applicant is incarcerated for over 4 years and 4 months in prison pending trial at all. Only charge is framed but witness action is yet to commence. The trial has commenced but *prima facie* record of the roznama placed before Court shows that from 23.10.2024 onwards there is no progress in trial. This matter was argued at length on 30.09.2026 before me by Mr. Joshi, learned Advocate for Applicant and Mr. Nakhwa, learned APP for State. Accused No.2 is the brother of Applicant, he has been granted bail by the Supreme Court in the present offence on 27.11.2024. Considering the seriousness and gravity of the murder in question, after hearing the parties at length on 30.09.2026, I had expressed my mind to dismiss the Bail Application and accordingly the caption of "Contested and Disposed Off" was stated in the Case Details on that date. However when I studied the papers and the material placed before me, and more specifically the roznama I am fully convinced that in view of more than one reason juxtaposed with the gravity of the crime as argued by the prosecution, I am inclined to consider the case of the Applicant before me for grant of bail.

4. Before I advert to my findings and *prima facie* observations, I must state that both the learned Advocates have argued the case fully and placed every ounce of material for consideration before the Court.

5. Applicant before me is an ex – serviceman having served the Indian Army. He married the victim in the year 2005 and they both have two young minor daughters. Two years prior to the date of incident i.e. on 07.06.2022, Applicant retired from the Indian Army as a military officer. At the time of incident he worked with Godrej company at Khopoli. In 2020, the victim – wife registered Criminal Miscellaneous Application No.113 of 2020 against Applicant – husband under the provisions of Protection of Women from Domestic Violence Act, 2005 (for short "**D.V. Act**") and both of them were staying separately at that time due to differences. It is seen that on 07.06.2022 victim - wife along with her parents and 2 daughters was attending Court proceedings in the above D.V. Act case at Shirur Court Complex when at 11:45 a.m victim - wife along with her parents and 2 daughters were all sitting under the shade of a tree outside the Court Complex and the Applicant arrived there along with his co accused - brother in a rickshaw. The co accused - brother was driving the rickshaw. Applicant walked towards the victim – wife with a pistol in his hand and threatened to kill her and fired 3 rounds at different parts of her body at close range fatally injuring her. The parents of the victim immediately intervened but Applicant inflicted a blow with the butt of the pistol on the head of his mother – in – law and forcefully kicked his father – in – law. According to prosecution's case, co accused - brother of Applicant called him to take both his daughters with him

and to kill them as well but due to the above incident both daughters ran inside the Court building to take cover and save themselves. The daughters have also recorded their statements.

6. The crime was committed in broad daylight after which both accused persons escaped when the public confronted them. There are 9 direct eyewitness statements recorded by the prosecution of the incident in question. These eye witnesses were present at the time of incident and their testimony is consistent.

7. Mr. Joshi, learned advocate in his usual fairmindedness has argued that the gravity of the crime and offence committed is undoubtedly serious but as an officer of the Court he would persuade me to consider the long incarceration of the Applicant for over 4 years and 4 months without any progress in trial whatsoever and the background of the Applicant for grant of bail. He would submit that considering the dispute and relationship with his wife and most importantly that from 23.10.2024 onwards trial has not progressed at all and the fact that Applicant is an ex – serviceman having retired after rendering service to the nation, Bail Application of Applicant be considered for grant of bail.

8. *PER CONTRA*, Mr. Nakhwa has argued that facts of the present case clearly show pre – meditation on the part of Applicant in committing the crime and therefore notwithstanding the delay in trial,

Bail Application be rejected.

9. I have considered the submissions and minutely perused the material placed on record before arriving at the conclusion in this order though I must say that Applicant committed the offence of killing his wife in cold blood, in broad daylight, in front of his entire family and the public at large, but notwithstanding this I am still inclined to consider the Applicant's case for grant of bail after perusing the entire material on the basis on the following *prima facie* observations and findings:-

(i) Record shows that Applicant retired from army in the year 2020 as military officer and was thereafter working in Khopoli. In that very year, DV Act proceedings were initiated by his wife against him. It is also seen that they had got married in the year 2005 and had two daughters. The filing of the DV Act proceedings goes to the root of the matter for the incident in question being the motive as statements which are recorded *prima facie* show harrasment meted out to the wife by the Applicant.

(ii) After Applicant fired at his wife, being an ex – military officer he could have even fired at his in - laws and his daughters but be chose not to do so and pushed them forcefully when they attempted to intervene.

(iii) Despite co – accused brother calling out to the Applicant that he

should kill the two daughters as well, Applicant being their father did not do so which enabled the two daughters to rush inside the Court building to save themselves.

(iv) Statements of eye witnesses show the anger and ire of the Applicant towards his wife only.

(v) Most importantly Mr. Joshi has placed the entire roznama of the dates of hearing from 18.10.2022 before the Trial Court. I have perused the entire roznama from all the dates of hearing until today. On 65 different dates of hearing after the framing of charge, the matter is listed before the learned Sessions Judge but it is seen that for some reason or the other, the matter is shown to be adjourned for "Evidence" to the next date. Once I see this position, I am of the opinion that the trial in itself will take a long time to conclude since it has not even commenced. The roznama shows that from 12.06.2024 onwards, the reason for adjournment is for "Evidence / Part Heard".

(vi) Applicant has no antecedents and the motive of the crime in question is the criminal proceedings filed by the wife against him.

(vii) Long incarceration of 4 years and 4 months, notwithstanding the gravity of the crime persuades me to grant bail to Applicant on the basis of the above reasons.

10. Applicant in present case has been in custody for 4 years and 4 months. There is no possibility of the trial commencing in the near future. Detaining an under-trial prisoner for such an extended period further violates his fundamental right to speedy trial flowing from Article 21 of the Constitution. At this juncture I deem it appropriate to list certain observations of the Supreme Court shedding light on concerns underlying the “Right to speedy trial” from the point of view of an accused in custody whose liberty is affected. In the case of ***Abdul Rehman Antulay & Ors. Vs R.S. Nayak & Anr.***¹ the Supreme Court held as under:-

“86. In view of the above discussion, the following propositions emerge, meant to serve as guidelines. We must forewarn that these propositions are not exhaustive. It is difficult to foresee all situations. Nor is it possible to lay down any hard and fast rules. These propositions are:

(1) Fair, just and reasonable procedure implicit in Article 21 of the Constitution creates a right in the accused to be tried speedily. Right to speedy trial is the right of the accused. The fact that a speedy trial is also in public interest or that it serves the societal interest also, does not make it any-the-less the right of the accused. It is in the interest of all concerned that the guilt or innocence of the accused is determined as quickly as possible in the circumstances.

(2) Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial. That is how, this Court has understood this right and there is no reason to take a restricted view.

(3) The concerns underlying the Right to speedy trial from the point of view of the accused are:

(a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;

¹ 1992 (1) SCC 225

(b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and

(c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.

(4) – (11) -----X-----”

(emphasis supplied)

11. The Supreme Court has also held in a series of judgments and orders that in situations where the under-trial-prisoner / accused persons have suffered incarceration rather long incarceration for a considerable period of time and there is no possibility of the trial commencing within the foreseeable future, Constitutional Courts can exercise power to release the accused under-trial on bail, as bail is the rule and jail is the exception.

12. In the case of *Supreme Court Legal Aid Committee (Representing undertrial prisoners) Vs. Union of India*², the Supreme Court has held that:-

“17. We are conscious of the fact that the menace of drug trafficking has to be controlled by providing stringent punishments and those who indulge in such nefarious activities do not deserve any sympathy. But at the same time we cannot be oblivious to the fact that many innocent persons may also be languishing in jails if we recall to mind the percentage of acquittals. Since harsh punishments have been provided for under the Act, the percentage of disposals on plea of guilt is bound to be small; the State Government should, therefore, have realised the need for setting up sufficient number of Special Courts immediately after the amendment of the Act by Amendment Act 2 of 1989. Even after the Division Bench of the Bombay High Court refused to grant en bloc enlargement on bail on 1-2-1993 in Criminal Application No. 3480 of 1992 and B.D. Criminal No. 565 of 1992, no substantial improvement in the pendency is shown since new cases continue to pour in, and, therefore, a one-time exercise has become imperative to place the system on an even keel. We also recommend to the State Government to set up Review Committees headed by a Judicial Officer, preferably a retired High Court Judge, with one or two other members

2 (1995) 4 SCC 695

to review the cases of undertrials who have been in jail for long including those released under this order and to recommend to the State Government which of the cases deserve withdrawal. The State Government can then advise the Public Prosecutor to move the court for withdrawal of such cases. This will not only help reduce the pendency but will also increase the credibility of the prosecuting agency. After giving effect to this order the Special Court may consider giving priority to cases of those undertrials who continue in jail despite this order on account of their inability to furnish bail.”

13. In the case of *Avinash Ashok Torane Vs. The State of Maharashtra*³, this Court (Coram: N.J. Jamadar, J.) while dealing with a bail application for offence under Section 302 of IPC considering parity with another co-accused who was enlarged on bail considered the unlikelihood of completion of trial coupled with the period of long incarceration of 1 year 3 months of the Applicant and enlarged him on bail.

14. In the case of *Sonu Parmeshwar Jha Vs. The State of Maharashtra*⁴ this Court (Coram: M.S. Karnik, J.) was dealing with a bail application for offences under Sections 302 and 304(b) of IPC and considering circumstantial evidence against the accused as well as long incarceration of accused of 1 year 7 months enlarged him on bail.

15. In the case of *Santosh Ramprasad Harijan Vs. The State of Maharashtra*⁵, (Coram: Manish Pitale, J.) in a case under Section 302 of IPC this Court taking into account long period of incarceration undergone by accused of 3 years 4 months granted him bail.

3 Bail Application No.3535 of 2023 decided on 08.01.2024

4 Bail Application No.4122 of 2021 decided on 18.01.2023

5 Bail Application No.1819 of 2024 decided on 29.11.2024

16. In the case of *Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Anr.*⁶, the Supreme Court while granting bail to accused incarcerated for 4 years in paragraph Nos.16 and 17 held as under:-

"16. Criminals are not born but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

17. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

17. In the case of *Balwinder Singh Vs. State of Punjab and Anr.*⁷, in a case under Sections 302 and 307 of IPC the Supreme Court granted bail to the accused who was behind bars for 4 years citing unlikelihood of completion of trial in the near future as also on parity with the co-accused.

18. In the case of *Roland Victor Monterio Vs. State of Maharashtra*⁸, this Court (Coram: N.J. Jamadar, J.) in a case under Sections 302, 304-B and 498-A of the IPC granted bail to the accused on account of his long incarceration of 4 years. Similarly in the case of

⁶ (2024) 9 SCC 813

⁷ SLP (CrL.) No.8523 of 2024

⁸ Bail Application No.1981 of 2023 decided on 11.01.2024.

*Naresh Harishchandra Mali Vs. The State of Maharashtra*⁹, this Court (Coram: N.J. Jamadar, J.) in a case under Sections 302 and 307 of IPC granted bail to the accused as he was in prison for a period of more than 5 years.

19. Recently, the Delhi High Court in the case of *Raghvendra Singh Vs. State of NCT of Delhi*¹⁰ granted bail to the Accused who was indicted for offence of murder citing his long incarceration for a period of 5 and half years and enlarged him on bail.

20. The ignominy of the trial not commencing in the near foreseeable future is apparent and in view thereof on the ground of long incarceration, without delineating any opinion on merits of the matter lest it should affect the trial, Applicant has made out case for grant of bail on the ground of long incarceration. He is granted bail subject to following conditions:-

- (i) Applicant is directed to be immediately released from prison in connection with CR. No.407 of 2022;
- (ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.15,000/- (Rs. Fifteen Thousand only) with one or two sureties in the like amount;

⁹ Bail Application No.3858 of 2022 decided on 27.07.2023.

¹⁰ 2025 SCC Online Del 21.

- (iii) Applicant shall report to the Investigating Officer at concerned Police Station, once every month, on the first Monday of the month between 10:00 a.m. to 12:00 p.m. and thereafter shall attend all dates of hearing before the Trial Court;
- (iv) Applicant shall cooperate with the conduct of the trial and remain present before the Trial Court on all dates, unless specifically exempted. Applicant shall not seek unnecessary adjournments. Any such conduct shall entitle the prosecution to apply for cancellation of bail;
- (v) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vi) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (vii) Applicant shall keep the Investigating Officer informed of his current residential address and mobile telephone number and shall forthwith inform the Investigating Officer of any change in his residential address or mobile telephone number, as and when such change occurs; and

(viii) Any breach or infraction of any of the aforesaid conditions shall entail cancellation of the bail granted to the Applicant.

21. It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made hereinabove in this order.

22. Bail Application is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

Ajay

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