

Anand

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

BAIL APPLICATION NO. 1273 OF 2023

**ANAND
SUDHAKAR
SUDAME**

Anklesh Govind Rathod

.Applicant

Vs.

The State of Maharashtra

.Respondent

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ANAND SUDHAKAR
SUDAME

Date: 2023.08.04
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Mr. Manoj Tiwari a/w. Ms Sejal Nalawade & Mr. Pratik Mokashi,
Advocate, for the Applicant

Mr. R. M. Pethe, APP, for the Respondent – State

Mr. Vijay Rane, PSI, Kandivali Police Station, Mumbai present

CORAM : ANUJA PRABHUDESSAI, J.

DATE : 02.08.2023

P. C.

. The Applicant, who is facing the trial in Sessions Case No. 132 of 2017 pending on the file of the learned Additional Sessions Judge, Dindoshi, Borivali, Mumbai has filed this Application under Section 439 of the Code of Criminal Procedure Code (for short 'Cr. P. C.') to enlarge him on bail. The said case arises from C. R. No. 15 of 2017 registered with Kandivali Police Station for the offences punishable under Sections 307, 324, 504, 506 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Tiwari, learned counsel for the Applicant and Mr. Pethe, learned APP for the Respondent – State. I have

perused the record and considered the submissions advanced by learned counsel for the respective parties.

3. The case of the prosecution is that on 12.01.2017, the accused and co-accused had assaulted the first informant and one Anil by means of an iron rod and cricket stump and thereby attempted to cause their death. The previous Bail Application, being B. A. No. 203 of 2019 was dismissed by this Court on 22.04.2019 on merits. The Applicant, thereafter, filed another Bail Application, being B. A. No. 3008 of 2021 which was allowed to be withdrawn on 29.09.2021. A perusal of the said order reveals that learned APP, on instructions, had made a statement that the prosecution intends to examine in all eight witnesses, out of which four witnesses were police personnel. It was further stated that the trial would be concluded within a period of six months. In view of this statement, the Applicant had sought leave to withdraw the Application with liberty to file a fresh Application before the trial Court in the event, the trial Court did not conclude within six months. Since the trial did not conclude within six months, the Applicant filed a fresh Application before the trial Court. The said Application has been dismissed mainly on the ground that the Applicant is involved in committing

serious offence and in view of his criminal antecedents.

4. The record reveals that the Applicant is in custody since 13.01.2017. Though a statement was made on 29.09.2021 that the prosecution would examine in all eight witnesses including four police personnel and would conclude the trial within six months, the trial has not concluded even after almost lapse of two years. It is also stated that till date, the prosecution has examined eight witnesses. Learned APP states that three more witnesses are yet to be examined. This fact indicates that the statement made on 29.09.2021 that the prosecution would examine in all eight witnesses appears to be an incorrect statement.

5. The Apex Court has time and again emphasized that speedy trial is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21 of the Constitution of India. It therefore follows that prolonged custody without reasonable expeditious trial is violative of Article 21 of the Constitution of India.

6. Considering the fact that the Applicant is in custody

since last more than five years and the trial is not likely to be concluded within a reasonable time, in my view, this is a fit case exercise powers conferred under Section 439 of the Cr. P. C. Hence, the Application is allowed on the following terms & conditions.

O R D E R

- (i) The Applicant, who is facing trial in Sessions Case No. 132 of 2017 arising from C. R. No. 15 of 2017 registered with Kandivali Police Station, is ordered to be released on cash bail in the sum of Rs. 40,000/- for a period of four weeks;
- (ii) The Applicant shall within the said period of four weeks, furnish P. R. Bond in the sum of Rs. 40,000/- with one or two solvent sureties in the like amount;
- (iii) The Applicant shall attend the hearing on each and every date unless exempted by the trial Court;
- (iv) The Applicant shall report to the Kandivali Police Station once in three months on every 1st Monday of the month between 11.00 a. m. and 02.00 p. m. until further orders;
- (v) The Applicant shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant,

witnesses or any person concerned with the case;

(vi) The Applicant shall not leave the city without prior permission of the trial Court;

(vii) The Applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time.

7. The Bail Application stands disposed of.

(ANUJA PRABHUDESSAI, J.)