

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

BAIL APPLICATION NO. 3571 OF 2021

Baccha Yadav @ Lallan Jiten
Yadav

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Ravi Dwivedi - Advocate for the Applicant

Mr. S. R. Agarkar - APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 11th JULY, 2023

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP.

2. It is true that this Applicant is behind bar since 05/02/2017. The grievance is in two folds. One is lack of merits and another is delay in trial. Yet charges are not framed.

3. Though on the point of lack of merits, learned Advocate for the Applicant tried to convince me, I am not impressed by his arguments. It is for the reason that even though in the F.I.R. no names are mentioned, during investigation Police have collected

materials which shows the involvement of this Applicant. There are certain witnesses, whose statements are on page no. 121 to 123 wherein they have stated that they have seen one assailant running after the firing incident. Even there is statement on page nos. 378 and 379 of witness Rohan and one Mayur, who have identified this accused during parade. Furthermore, there is statement of the witness-Abhishek about identifying the present Applicant on the basis of CCTV footage. Furthermore, there is memorandum statement wherein Applicant has shown place wherein he thrown murder weapon at page no. 248. However murder weapon could not found out, as it was thrown from versova beach. Furthermore, driving license of the Applicant is found at the spot. Certain lacunaes are pointed out in the above materials. However it can be dealt with at the time of trial. These materials are sufficient for detention of the Applicant.

4. This are my *prima-facie* observation.
5. There is a reliance on order passed by this Court for co-accused Ajay@ Soni Kishan Varma in Bail Application No. 37 of 2022, but his role is different from the present accused.
6. As trial has not started since 2017, the Applicant has got

every right to pray for bail. However, today, I am not inclined to grant him bail. At present we do not have statistics about the pendency before the trial court. It is true that there must be heavy pendency. However long incarceration for 4 years have given rise to right to ask for bail. Still some time must be given for conduct of trial. Hence following order is passed:-

ORDER

- (i) Let the trial Court to give priority to this case and finish it within six months. If trial will not be finished, the Applicant is permitted to approach before the trial Court with plea of bail.
- (ii) The trial Court is directed to decide the application on the basis of the delay in conducting the trial. So far as merits is concerned, this Court has already given findings as mentioned above. So bail can be considered only on the ground of delay.

7. With above observations the application is disposed of. This Order be communicated to the concerned Court for information and necessary steps.

[S. M. MODAK, J.]