

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3529 OF 2023**

Akshay Guruling Khatale .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr. Vinod Kashid for the Applicant.
Mr. S.R. Agarkar, APP for the State.
Mr. A.A. Jagtap, P.S.I, Wagle Estate Police Station present in Court.

**CORAM: BHARATI DANGRE, J.
DATED : 13th DECEMBER 2023**

P.C:-

1 On 6/10/2022, by a reasoned order, the application filed by the present applicant was rejected by me along with an application of co-accused Ashish Gurav.

 In the wake of the material compiled in the charge-sheet, I had reached a conclusion that it is sufficient to take him for trial and the attempt of Mr. Kashid to point out the contradictions and discrepancies in the case of the prosecution, were brushed aside to be better left for the trial court.

2 The present application is filed for the second time in the backdrop of the above order on the ground of long incarceration.

 Mr. Kashid, the learned counsel for the applicant would submit that the applicant came to be arrested on 31/10/2017, and more than six year down the line, he is incarcerated without charge having been framed in the case. The applicant was a young boy aged 19, at the time when he was accused of the said offence and suffered great loss on account of his incarceration, as an under-trial prisoner as he has wasted six fruitful years of his life and as on date it cannot be

said with certainty as to when the trial would be concluded.

Ten persons are arraigned as accused in the subject C.R. which had invoked 302, 307, 143, 147, 148, 149 of IPC and out of them 7 accused are released on bail.

3 Though on the earlier occasion by recording that the material in the charge-sheet prima facie indict the applicant, the benefit of Section 439 was refused to him but as on date considering the fact that the charge is not framed one can just imagine fate of such a trial with around 46 witnesses being cited by the prosecution.

I must make myself clear that the present application is being entertained by me only on the ground of the long incarceration of the applicant, which is in clear violation of his fundamental right under article 21, to have a fair and speedy trial and under-trial prisoner cannot be incarcerated indefinitely, when the prosecution is unable to try him within the stipulated period.

Apart from this, the learned counsel has invited my attention to the order passed by Justice M.S. Karnik on 12/09/2023 and 29/08/2023, in case of co-accused Sunny Ravi Sharma and Raj Ravindra Parab as well as the order dated 28/02/2023 in case of Rohit Dinesh Salekar, who have been released on bail in the wake of their long incarceration, for more than five years.

There is no reason why the same benefit shall not be extended to the present applicant. Hence the applicant deserve his release on bail by the following order:

: ORDER :

- (a) Application is allowed.
- (b) Applicant-Akshay Guruling Khatale, shall be released on bail in connection with C.R.No. I-206 of 2017, registered

with Wagle Estate Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or more sureties in the like amount.

(c) The applicant shall mark his attendance on first Monday of every month between 5:00 p.m to 6:00 p.m to the concerned Police Station.

(d) The applicant shall attend the trial on regular basis.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) If there are two consecutive defaults in attending the Police Station, the prosecution will be at liberty to bring it to the notice of the Sessions Judge.

(SMT. BHARATI DANGRE, J.)