



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

BAIL APPLICATION NO.131 OF 2024

- 1) Sagar s/o Sanjay Patil,
Age-23 years, Occu:Labour,
R/o-Shivaji Nagar, Pailad, Amalner,
Tq-Amalner, Dist-Jalgaon,
- 2) Gaurav s/o Vijay Patil,
Age-24 years, Occu:Labour,
R/o-Tambepura, Sanenagar,
Amalner, Tq-Amalner,
Dist-Jalgaon.

...APPLICANTS

VERSUS

The State of Maharashtra,
Through Police Station,
Jilha Peth, Jalgaon.

...RESPONDENT

...
Mr.Hemantkumar F. Pawar Advocate for Applicants.
Mr. S.D. Ghayal, A.P.P. for Respondent – State.
...

CORAM: S.G. MEHARE, J.

DATE : 20th JULY 2024

ORDER :

1. Heard learned counsel for the applicants and learned APP
for the State.

2. The applicants seek bail in Crime No.81 of 2020 registered with Jilha Peth Police Station, Jalgaon, District- Jalgaon for the offence punishable under Sections 307, 353, 120(B), 224, 225, 201 of the Indian Penal Code with Section 3/25 of the Arms Act.

3. The applicants are languishing in jail for more than four years. Some of the co-accused who were on bail, flee away. The Court issued non bailable warrants against them, but they were not traced. In view of this situation, this Court by order dated 4th March 2024 directed the prosecution to produce the accused against whom non-bailable warrants were issued. This Court directed the trial Court to frame charge against the under-trial accused. However, the learned APP has fairly conceded that the accused could not be produced. Learned counsel for the applicants submits that yet the charge has also not been framed.

4. From the facts mentioned above, it appears that the prosecution is not able to ensure a speedy trial which is a fundamental right of the accused enshrined under Article 21 of the Constitution of India. The Hon'ble Supreme Court in the case of *Javed Gulam Nabi Shaikh vs. State of Maharashtra and others*, *Manu/SC/0609/2024*, dated 3rd July 2024, and in case of

Sheikh Javed Iqbal @ Asfaq Ansari @ Javed Ansari vs. State of Maharashtra in Criminal Appeal No.2790 of 2024 dated 18th July 2024, expressed displeasure against the prosecution for not protecting the right of the speedy trial of the under-trials and after discussing various laws for protecting the fundamental right of the accused under Article 21 of the Constitution of India, granted the bail. The Hon'ble Supreme Court in the case of *Javed Gulam Nabi Shaikh*, supra, has also observed that Article 21 of the Constitution of India applies irrespective of the nature of the crime. The ratio laid down by the Hon'ble Supreme Court in the above caselaws squarely applies to the present case in hand. Therefore, the application deserves to be allowed. Hence the following order:-

ORDER

- i) Bail Application stands allowed.
- ii) Applicant No.1 – Sagar S/o Sanjay Patil and applicant No.2 – Gaurav S/o Vijay Patil, be released on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand only) each with one solvent surety of the like amount each, in the above crime, on the condition that:-

(a) The applicants shall attend the trial on each and every effective date.

(b) The applicants shall not leave the place of their residence without the leave of the Court. They shall furnish their current address and mobile numbers, with an undertaking that they would not change the same till the conclusion of trial.

(c) If the applicants would violate the bail conditions, their bail will be cancelled at the instance of the prosecution.

[S.G. MEHARE, J.]