

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.1336 OF 2024

Sanjay Maruti Kambale	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Ramanik P. Pawar a/w. Ms. Samiksha Pawar & Dhanashree Jagdale, Advocates, for the Applicant.
 Mr. P. H. Gaikwad, APP, for the Respondent-State.
 Mr. Kedar Patil, for the Informant.
 Mr. Vijay Godse, A.P.I., Ichalkaranji Police Station, Kolhapur, present.

CORAM: MADHAV J. JAMDAR, J.
DATED: 15th APRIL 2024

PC:-

1. Heard Mr. Ramanik Pawar a/w. Ms. Samiksha Pawar, learned Counsel for the Applicant, Mr. Gaikwad, learned APP for the Respondent-State and Mr. Kedar Patil, for the Informant.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C. R. No.	37 of 2018
2.	Date of registration of F.I.R.	26/02/2018

3.	Name of Police Station	Ichalkaranji, Kolhapur
4.	Section/s invoked	143, 144, 147, 148, 149, 307, 302, 324, 504, 506 r/w. 34 of the Indian Penal Code, 1860
5.	Date of incident	25/02/2018
6.	Date of arrest	27/02/2018
7.	Date of filing of Charge-sheet	24/05/2018

3. At the outset, Mr. Pawar, learned Counsel for the Applicant submitted that this is a second Bail Application. The first Bail Application was rejected by a learned Single Judge (Coram: Nitin W. Sambre, J.) by Order dated 26th February 2019. It is submitted that the Applicant was arrested on 27th February 2018 and till date, the Applicant is in custody except for a period of about 8 months and 15 days i.e. from 8th July 2021 to 23rd March 2022 when the Applicant was released on temporary bail due to COVID-19 pandemic. It is submitted that even considering the said temporary bail period also, the Applicant is incarcerated for about 5 years and 5 months. It is further submitted that the Applicant was produced before the Trial Court only on four occasions. It is submitted that the matter was listed on 130 times before the learned Trial Court. Out of that, the Applicant remained present 23 times before the learned Trial Court. Out of those 23 times, 19 hearings were

during the period when the Applicant was on temporary bail and he remained present on all those dates. It is submitted that the Applicant was produced before the learned Trial Court only on four occasions. It is submitted that the charge was framed on 7th January 2019 and not a single witness has been examined till date. It is submitted that there are total 8 Accused persons out of which 3 Accused have been granted bail and 3 Accused have died. Only the Applicant and one co-Accused are in jail. Therefore, it is submitted that the Applicant be granted bail on the ground of long incarceration. It is submitted that there are no criminal antecedents against the Applicant and the present crime is the only crime registered against the Applicant.

4. On the other hand, Mr. Gaikwad, learned APP for the Respondent-State strongly opposed the Bail Application. He pointed out *Roznama* and submitted that the trial is being delayed as other co-Accused are filing Applications for exemption. Apart from that, the Applicant has filed an Application seeking bail and thereafter, the said Application has not been pressed. He therefore submitted that the Bail Application be rejected.

5. Mr. Kedar Patil, learned Counsel for the Informant also opposed the Bail Application. He submitted that the Bail Application on merits is already rejected. Three co-Accused who have been granted bail are threatening the Informant and his family members. He submitted that the Informant and his brother i.e. injured are personally present in Court and stated that the co-Accused who have been granted bail are giving threats. He further submitted that as the case is of the year 2018, the trial be expedited.

6. At the outset it is to be noted that as the first Bail Application was rejected on merits by Order dated 26th February 2019 passed by a learned Single Judge (Coram: Nitin W. Sambre, J.) therefore, as pointed out by the learned Counsel for the Informant, merits cannot be considered.

7. As far as the contention regarding long incarceration is concerned, it is to be noted that the incident in question occurred on 25th February 2018, F.I.R. was lodged on 26th February 2018, the Applicant was arrested on 27th February 2018 and, Charge-sheet was filed on 24th May 2018. Till date excluding the period of

temporary bail granted to the Applicant on account of COVID-19 pandemic (from 8th July 2021 to 23rd March 2022) the Applicant is incarcerated for more than 5 years and 5 months. The charges were framed on 7th January 2019. Till date there is no progress in the trial. It is to be noted that after framing of the charge on number of occasions, the matter could not be taken up as the Accused Nos.1 to 3 were not produced on various dates including on 5th March 2019, 16th April 2019, 30th April 2019, 28th June 2019, 25th September 2019, 3rd October 2019, 17th October 2019, 4th November 2019, 13th December 2019, 14th January 2020, 27th January 2020, 5th February 2020, 17th February 2020 and 4th March 2020 and thereafter due to COVID-19 pandemic the trial was delayed. So it is to be noted that from 7th January 2019 when the charge was framed till March 2020, the matter was listed on several days, however, Accused Nos.1 to 3 were not produced before the Court and therefore there was no progress in the trial.

8. There is some substance in the contention of Mr. Gaikwad, learned APP that the trial is delayed as other Accused are taking time and as the present Applicant has filed a Bail Application. As far as the contention that other Accused are filing the Applications

for exemption and for bail, cannot be attributed to the present Applicant. It is true that the Applicant filed an Application for bail on 13th February 2023 and has not pressed the same on 21st March 2024. It is to be noted that the present Bail Application has been immediately filed in this Court on 26th March 2024. It is also required to be noted that the Applicant's Bail Application remained pending before the learned Trial Court for a period of about one year. Therefore, it cannot be said that the Applicant is solely responsible for the delay. In fact, from the date of the framing of charge i.e. from 7th January 2019 till March 2020 when Court proceedings were not affected due to COVID-19 pandemic, the trial was delayed as the Accused Nos.1 to 3 were not produced before the learned Trial Court.

9. In any case, it is required to be noted that the Applicant was arrested on 27th February 2018. Till date, the Applicant is in custody except from 8th July 2021 to 23rd March 2022. Thus, the Applicant is incarcerated for a significant duration. Not a single witness has been examined by the prosecution till date. As per the Charge-sheet, there are 22 witnesses proposed to be examined by

the prosecution. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

10. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ Therefore, the Applicant is entitled for bail.

11. There are no criminal antecedents against the present Applicant.

12. Mr. Pawar, learned Counsel for the Applicant states that as several witnesses are from Ichalkaranji taluka, the Applicant will therefore not reside within Ichalkaranji taluka and that the Applicant will reside at C/o. Mohan Hariba Gaikwad, Near Vitthal Mandir, Gothanpur Galli, Kurundwad, Kolhapur.

13. The Applicant does not appear to be at risk of flight.

1 Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

14. As far as the contention of Mr. Kedar Patil, learned Counsel for the Applicant that three co-Accused who have been released on bail are giving threats to the Informant and his family members, the Informant and/or his family members have remedy of filing Application for cancellation of bail.

15. However, there is substance in the contention raised by learned Counsel for the Informant that as the incident is of the year 2018 the trial be expedited.

16. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

17. In view thereof, the following order:-

ORDER

- (a) The Applicant – Sanjay Maruti Kambale be released on bail in connection with C.R. No.37 of 2018 registered with the Ichalkaranji Police Station, District - Kolhapur on his furnishing P.R. Bond of Rs.15,000/- with one or two solvent sureties in the like amount.

- (b) The Applicant shall not enter the Ichalkaranji Taluka after being released on bail, except for reporting to the Investigating Officer, if called, and for attending the trial.
- (c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicant shall report to the Kurundwad Police Station, District-Kolhapur once every week, i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Kurundwad Police Station, District-Kolhapur to communicate details thereof to the Investigating Officer.
- (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

such a person from disclosing the facts to the Court or to any Police personnel.

(f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

(g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

18. In the facts and circumstances of this case and as the case is of the year 2018, the learned Trial Court is requested to expedite the trial.

19. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]