

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

BAIL APPLICATION NO. 1912 OF 2024

Sadashiv Ramchandra Mali

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Atharva R. Bhingardive a/w Mr. Yash M. Naik i/b. Mr. Vaibhav R. Gaikwad, Advocates, for the Applicant.
Mr. S. S. Chaudhari, APP, for the Respondent – State.

CORAM: MADHAV J. JAMDAR, J.
DATE: 26.06.2024

P. C.:

1. Heard Mr. Bhingardive, learned Counsel for the Applicant and Mr. Chaudhary, learned APP for the Respondent-State.
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.	100 of 2016
2.	Date of registration of F.I.R.	15.04.2016
3.	Name of Police Station	Vaduj, Satara
4.	Sections invoked	302, 201 r/w. 34 of the I.P.C., 1860
5.	Date of incident	14.04.2016
6.	Date of arrest	15.04.2016
7.	Total Accused	1. Ramchandra Namdeo Mali 2. Suresh Ramchandra Mali 3. Subhash Ramchandra Mali 4. Sadashiv Ramchandra Mali (Present Applicant)
8.	Status of other co-accused	1. Ramchandra Namdeo Mali was released on bail by learned Sessions

		Judge vide Order dated 11.08.2016. 2. Suresh Ramchandra Mali was released on bail by this Court on medical grounds vide Order dated 02.04.2024. 3. Subhash Ramchandra Mali was released on bail by learned Sessions Judge vide Order dated 11.08.2016. 4. Sadashiv Ramchandra Mali is the present Applicant.
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3. At the outset, Mr. Bhingardive, learned Counsel appearing for the Applicant submitted that this is the second Bail Application preferred by the present Applicant. He pointed out the Order dated 13.12.2017 passed by a learned Single Judge (Coram: Smt. Sadhana S. Jadhav, J.) in B.A. No.1712 of 2017. By the said Order, the Bail Application preferred by the present Applicant as well as another co-accused namely Suresh Ramchandra Mali was rejected. For the sake of convenience, the prosecution case as set out in paragraph no.2 of the aforesaid Order dated 13.12.2017 is reproduced herein below:

“2. It is the case of the prosecution case that on 15.4.2016 at about 9 am., the daughter of Baban Mali i.e. Santoshi lodged a missing report at Vaduj Police Station contending therein that her father had gone to water the agricultural land in the night and has not returned. The missing report was lodged at about 9.03 a.m. On the same day at about 12.10 in the noon, Santoshi had informed the police that she suspects that her father has in all probabilities, met with homicidal death at the hands of Ramchandra Mali, Subhash Mali, Sadashiv Mali and Suresh Mali who happen to be the relatives. According to her, the

motive for causing murder of Baban Mali was that there is a civil dispute between the families. The police had then called upon the original accused No. 1 to 3 and enquired with them. In the course of enquiry, the original accused Nos. 1 to 3 had admitted before the police that they have caused homicidal death of Baban Mali and had concealed his dead body at Chitali near Mohite Mali Canal. The three accused had led the police to the discovery of the dead body under Section 37 of the Indian Evidence Act.”

4. The record of the case shows that the incident in question has taken place on 14.04.2016. The present Applicant was arrested on 15.04.2016 and admittedly, till date, no final Judgment has been delivered in the said Sessions Case. Mr. Bhingardive, learned Counsel appearing for the Applicant states that the matter is pending since 06.09.2023 for final arguments.

5. With the assistance of the learned Counsel appearing for the Applicant and Mr. Chaudhari, learned APP, I have perused the roznama of the said Sessions Case. The roznama shows that the matter was listed for the purpose of final arguments on about 20 occasions from 06.09.2023 to 09.07.2024. However, the same was adjourned as *inter alia* the Accused No. 4 i.e. present Applicant was not brought from the jail to the Trial Court on many occasions, and on some occasions, other Accused took time and on some occasions, learned APP appearing in the trial Court has taken time.

6. Mr. Bhingardive, learned Counsel appearing for the Applicant states that the matter is pending for final arguments since 06.09.2023 i.e. for more than nine months. It is required to be noted that the Applicant is in custody since 15.04.2016 i.e. for more than eight

years and two months.

7. Speedy trial is a right of the Applicant protected under Article 21 of the Constitution of India. 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. Thus, this is a case where the fundamental right of the Applicant guaranteed under Article 21 of the Constitution of India of the speedy trial is violated.

8. Apart from that, it is to be noted that the incident in question has taken place, as there is a land dispute between the Accused and the Deceased i.e. uncle of the present Applicant. There are no other antecedents. It is also required to be noted that except the present Applicant, all other Accused have been released on bail as noted herein above.

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

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

11. In view thereof, the following order:

ORDER

(a) The Applicant - Sadashiv Ramchandra Mali be released on bail in connection with C. R. No. 100 of 2016

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

registered with the Vaduj Police Station, Satara on his furnishing P. R. Bond of Rs.15,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant is permitted to furnish cash bail surety in the sum of Rs.15,000/- for a period of two months in lieu of surety.

(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 Vaduj Police Station, Satara as and when called for by 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.

12. The Bail Application is disposed of accordingly.

13. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this order.

[MADHAV J. JAMDAR, J.]