

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

CRIMINAL BAIL APPLICATION NO. 2113 OF 2024

1. Mainesh Zajamya Pawar ...Applicants
2. Dharam *alias* Taditapadya Pitambar Kale

Versus

The State of Maharashtra ...Respondent

Mr. Firoz Maner, a/w Mr. Vikrant Shinde, Advocate, for the Applicants.
Mr. S.M. Mangaonkar, APP, for Respondent- State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 4th July 2024

P. C.

1. Heard Mr. Maner, learned Counsel for the Applicants and Mr. Mangaonkar, 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.	200 of 2017
2.	Date of registration of F.I.R.	14 th August 2017
3.	Name of Police Station	Jaysingpur, District-Kolhapur
4.	Section/s invoked	396, 397 of <i>I.P.C., 1860</i> ;
5.	Date of incident	13 th August 2017
6.	Date of arrest	Accused no.1 :18 th September 2017 Accused No.2 : 8 th October 2018.
7.	Date of filing Charge-sheet	15 th December 2017

3. As per the prosecution case, the informant noticed on 14th August 2017 that there was an incident of dacoity in his house on the intervening night of 13th August 2017 and 14th August 2017, in which his parents were assaulted. The mother was found lying in a pool of blood and the father was found to be seriously injured and there was a theft of gold ornaments and cash worth of Rs.7,22,500/-.

4. Mr. Maner, learned Counsel for the Applicants submitted that the Applicant No.1 was apprehended on 18th September 2017 and Applicant No.2 was apprehended on 8th October 2018 and till date there is no progress in the trial and even the Charge is also not framed yet. He further submitted that the case is of circumstantial evidence and except recovery of gold ornaments, which is in fact recovery in an other case, there is no other evidence. He submitted that the prosecution has not even conducted the test identification parade. He submitted that there are a total of 6 Accused persons. Accused Nos.3 and 6 have been granted bail by the learned Trial Court and Accused No.5 has been granted bail by a learned Single Judge (Coram: C.V. Bhadang, J.) by the Order dated 17th March 2022 passed in Bail Application No.3700 of 2021. He submitted that Accused No.4- Vishal Bhimrav Pawar is granted bail by this Court by Order dated 11th March 2024 passed in Criminal Bail Application No.4187 of 2023.

5. Apart from the merits of the case, it is to be seen that the F.I.R. is dated 14th August 2017, the Applicants were apprehended on 18th September 2017 and 8th October 2018 respectively and till date there is no progress in the trial and even the Charge is also not framed yet.
6. Learned Counsel for the Applicants states that as per the Charge-sheet, the prosecution proposes to examine about 33 witnesses. The trial is likely to take a considerably long time.
7. 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 Applicants’ right to speedy trial is violated and hence, they are entitled for bail.
8. The Applicants do not appear to be at risk of flight.
9. Accordingly, the Applicants can be enlarged on bail by imposing conditions.
10. In view thereof, the following order:-

ORDER

(a) The Applicant No.1- Mainesh Zajamya Pawar and
Applicant No.2- Dharam *alias* Taditapadya Pitambar Kale be

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

released on bail in connection with C.R. No.200 of 2017 registered with the Jaysingpur Police Station, District-Kolhapur on their furnishing P.R. bonds of Rs.25,000/- each with one or two local solvent sureties in the like amount.

(b) On being released on bail, the Applicants shall furnish their cell phone numbers and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(c) The Applicants shall report to the Jaysingpur Police Station, District-Kolhapur once every week i.e. on the Sunday of every week between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(d) The Applicants 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.

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

(f) The Applicants shall attend the trial regularly. The Applicants shall co-operate with the Trial Court and shall not

seek unnecessary adjournments thereat.

(g) The Applicants shall surrender their passport, if any, to the Investigating Officer.

11. The Bail Application is disposed of accordingly.

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

BHALCHANDRA
GOPAL
DUSANE

[MADHAV J. JAMDAR, J.]

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BHALCHANDRA
GOPAL DUSANE
Date: 2024.07.04
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