

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

BAIL APPLICATION NO.4253 OF 2023

Chinmay Prashant Jagtap

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Veerdhaval Kakade a/w Apurva Mahadik i/b Mrunal Jadhav, for the Applicant.

Ms. S. S. Kaushik, APP, for the Respondent-State.

Mr. Milind Ashok Baile, PC-Karad Taluka Police Station, District-Satara, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 16th APRIL 2024

P. C.

1. Heard Mr. Kakade, learned Counsel for the Applicant and Ms. Kaushik, 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.	476 of 2017
2	Date of registration of F.I.R.	18/11/2017
3	Name of Police Station	Karad Taluka, District-Satara
4	Section/s invoked	320, 120-B r/w 34 of the <i>I.P.C., 1860</i> ;
5	Date of incident	18/11/2017
6	Date of arrest	19/11/2017
7	Date of filing Charge-sheet	12/02/2018

3. The Applicant is seeking regular bail in connection with C.R. No.476 of 2017 registered with Karad Taluka Police Station, Karad for the offences punishable under Sections 302, and 120-B read with 34 of the *Indian Penal Code, 1860*.

4. At the outset, Mr. Kakade, learned Counsel submitted that the Applicant is not seeking bail on merits and the bail is sought only on the ground of long incarceration.

5. The Applicant filed the Bail Application No.184 of 2017 before the learned Trial Court and the same was rejected by Order dated 22nd January 2018 passed by the learned Additional Sessions Judge, Karad. Thereafter, the Applicant filed the second bail Application which was rejected by Order dated 21st March 2018 passed by the learned Trial Court. Thereafter, the Applicant approached this Court by filing the Criminal Bail Application No.1031 of 2020 and the same was rejected by Order dated 15th December 2021 passed by a learned Single Judge [V.G. Bisht, J.]. The Applicant thereafter approached the Supreme Court by filing a Special Leave to Appeal (Criminal) No.1547 of 2023 and the Supreme Court passed the following Order on 17th March 2023.

“Heard the learned senior counsel for the petitioner as also the learned counsel for the respondent-State and perused the petition papers.

*Though, the learned senior counsel for the petitioner refers to the papers to indicate the role attributed to the petitioner and to seek for grant of bail, without reference to that aspect of the matter, **we note that the charge-sheet, in any event, has been filed on 03.10.2018 but there is no***

sufficient progress in the trial.

Therefore, we make it clear that if the trial does not commence within a period of six months from this day and no substantial progress is made, we reserve liberty to the petitioner to file fresh application at that stage seeking for bail before the Trial Court, and if such application is filed, the same shall be considered on its own merits and in accordance with law, and the non-consideration of this petition at this stage, shall not be treated as an impediment for the Trial Court to grant bail.

With the aforesaid observations, the petition is disposed of. Pending application(s), if any, shall stand disposed of."

(Emphasis added)

6. Thus, the Hon'ble Supreme Court has given liberty to the Applicant to file a fresh Bail Application if the trial does not commence within a period of six months. Thereafter, as trial has not commenced within the said period, pursuant to the liberty granted by the Supreme Court, the Applicant filed a fresh Bail Application before the learned Trial Court and the same was rejected by Order dated 3rd November 2023. The relevant paragraph is paragraph No.7 and the same reads as under:

"7. The right of speedy trial conferred by the Constitution of India, cannot be over looked or side lined. Admittedly the charge is framed on 27.08.2019. Since then from time to time summons are issued to the prosecution witnesses. However, the informant i.e. father of deceased Prathamesh is not ready to proceed with the trial in present case on the ground that the trial of child in conflict law is to be held jointly with applicant/accused by treating child in conflict with law as on adult person. This conduct on the part of informant and prosecution is not appreciable. If the order relating to trial of child in conflict with law as an adult person is confirmed then there is liberty to the prosecution to adduce further evidence of informant or witnesses. Trial of accused Chinmay and Vijay

Mane could not be stopped till the finality of decision as regard trial of child in conflict with law as an adult person. Therefore, the directions are required to be issued against the prosecution to conduct the trial on priority basis. Hence, following order:

ORDER

1.	<i>Bail Application stands rejected.</i>
2.	<i>Trial is expedited.</i>
3.	<i>Prosecution is directed to keep the witness present before the Court on next date and proceed with the trial without fail.</i>
4.	<i>The prosecution is further directed to conclude the trial within two months without fail.</i>
5.	<i>Failure of prosecution will resulted into passing of further necessary order.”</i>

Although the learned Trial Court has recorded that the informant i.e. father of the deceased-Prathamesh is not ready to proceed with the trial on the ground that the trial of the child in conflict with law is to be held jointly with the present Applicant by treating the child in conflict with law as an adult person, it has directed the prosecution to conclude the trial within a period of two months.

7. The present Bail Application came up before this Court on 4th April 2024 and I sought information about the stage of trial. Today, Ms. Kaushik, learned APP has submitted the report dated 10th April 2024 of the learned Additional Public Prosecutor, Karad. In the said report it is mentioned that the prosecution proposes to examine a total of 30 witnesses and that only 5 witnesses have been examined so far. It is further stated in the said report that the time required for completion of

the trial cannot be specified and nothing can be said about whether the trial would be concluded within one year.

8. Perusal of the record shows that F.I.R. was lodged on 18th November 2017 and the Applicant was arrested on 19th November 2017. It is an admitted position that investigation has been completed and that Charge-sheet has been filed on 12th February 2018. The charge was framed on 27th August 2019. Till date, only 5 witnesses have been examined. The trial is likely to take a considerably long time. The Applicant is incarcerated since six years and six months. The prosecution proposes to examine about 25 witnesses hereinafter. The learned Additional Public Prosecutor, Karad in his written report dated 10th April 2024 has not given any time limit for completion of the trial.

9. 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

10. Mr. Kakade, learned Counsel for the Applicant, after taking instructions, states that as several witnesses are from Taluka-Karad and Taluka-Patan of District-Satara, the Applicant will therefore not reside within District-Satara and that the Applicant will reside at C/o. Bajrang

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

Balaso Pawar, At Post-Tadasar, Taluka-Kadegaon, District-Sangli.

- 11.** The Applicant does not have any criminal antecedents.
- 12.** The Applicant does not appear to be at risk of flight.
- 13.** Accordingly, the Applicant can be enlarged on bail by imposing conditions.
- 14.** In view thereof, the following order:-

ORDER

- (a) The Applicant-Chinmay Prashant Jagtap be released on bail in connection with C.R. No.476 of 2017 registered with the Karad Taluka Police Station, District-Satara on his furnishing PR. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.
- (b) The Applicant shall not enter the Satara district 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 Chinchani-Wangi Police Station, District-Sangli 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 Chinchani-Wangi Police Station, District-Sangli 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.

15. The Bail Application is disposed of accordingly.

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

[MADHAV J. JAMDAR, J.]