

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

Criminal Bail Application No. 46 of 2024

Mr Imamuddin Sukrulla Khan	...	Applicant
v/s.		
The State of Maharashtra		
Through Senior Police Inspector		
of Sakinaka Police Station	...	Respondents

Dr. Abhinav Chandrachud, advocate a/w. Pranit Kulkarni i/b. Prem Kumar R. Pandey, advocate a/w. Pavan Kumar Pandey, advocate, Sneha Mishra, Vinayak Agre for the applicant.

Smt. Mahalaxmi Ganpati, APP for the State.

CORAM : BHARATI DANGRE, J.

DATE : 6 February 2024

P.C. :

On 14th July 2022, the application filed by the applicant, for accusation in C.R. No.378 of 2019 for the offences punishable under Section 302 of the I.P.C. and Section 3 and 25 of the Arms Act was rejected by me by exhaustively referring to the material compiled in the chargesheet by the investigating agency.

It was specifically recorded that the material compiling the chargesheet *prima-facie* establish his guilt under Section 302 as he

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himself has surrendered to the police immediately after the incident. The gun was seized from the applicant when surrendered and was sent for analysis and it is also established that bullet has been found in his revolver.

2. Being aggrieved by the said order, the applicant approached the Apex Court on 17 October 2022. The Special Leave to Appeal was withdrawn with liberty to file fresh application in accordance with law after reasonable time or in case of change in circumstances.

3. Availing the aforesaid liberty, the 2nd application is filed on 3 January 2024, particularly on the ground that despite completion of more than 4 years of incarceration, he being arrested on 25th May 2019, i.e. on the date of the incident, the charge is not even framed.

4. Mr Chandrachud representing the applicant would press into service the position of law as laid down by the highest Court of the country as well as this Court in various decisions/orders reiterating that the speedy trial is the facet of Article 21 and the accused cannot be incarcerated awaiting the outcome of his trial. It is pointed out that there are 62 witnesses to be examined by the prosecution. The culmination of the trial cannot be contemplated at this stage since till date even the prosecution has not bothered to get the charge framed.

5. I find myself in agreement with the learned counsel for the applicant in the wake of the well settled position of law, as regards the long incarceration of accused awaiting the trial, whatsoever may be the accusation faced by him and, in this case, specifically the charge is for the offence of murder, the investigation has been completed and entire material being compiled in the chargesheet, his further incarceration is unnecessary. He deserves release on bail subject to following stipulations:

ORDER

- (a) Application is allowed.
- (b) Applicant-Imamuddin Sukrulla Khan, shall be released on bail in connection with C.R.No. 378/2019 registered with Sakinaka Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties in the like amount.
- (c) The applicant shall mark his attendance on first Monday of the Trimester between 5.00 p.m to 7.00 p.m till framing of the charge to the concerned Police Station and make himself available as and when required by the Investigating Officer.
- (d) The applicant shall attend the trial on regular basis.
- (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 him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

6. It is made clear that any incident or indulgence with the witnesses of the prosecution is noticed, the same would confer a liberty to the prosecution to apply for cancellation of his bail.

SMT BHARATI DANGRE, J.

Lata Panjwani, P.S.