

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

CRIMINAL BAIL APPLICATION NO.1064 OF 2024

Nitin Bhausahab Sable

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. R.D. Soni i/by Vipin R. Kasle, Advocates, for the Applicant.

Mr. P.H. Gaikwad, APP, for Respondent-State.

Mr. Abhijit Y. Pawar, PSI, Shirur (Pune-Rural) Police Station present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 22nd March 2024

P. C.

1. Heard Mr. Soni, learned Counsel for the Applicant and Mr. Gaikwad, 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.	26 of 2016
2.	Date of registration of F.I.R.	29th January 2016
3.	Name of Police Station	Shirur, District-Pune
4.	Section/s invoked	302, 201 and 34 of <i>I.P.C., 1860</i> ;
5.	Date of incident	26th January 2016
6.	Date of arrest	29th January 2016

3. At the outset, it is to be noted that the Applicant has earlier filed Criminal Bail Application No.183 of 2019, which has been allowed to be

withdrawn by Order dated 6th March 2019 as the Court was not inclined to grant bail. However, Mr. Soni, learned Counsel for the Applicant submitted that the Applicant is incarcerated since 29th January 2016. He submitted that the Applicant is in custody for 8 years and 3 months and yet the trial is not concluded. He submitted that therefore there is a violation of fundamental right of the Applicant of speedy trial guaranteed under Article 21 of the Constitution of India and therefore, this Bail Application be granted.

4. On the other hand, Mr. Gaikwad, learned APP vehemently opposed the Bail Application. Learned A.P.P. tenders Affidavit-in-Reply dated 19th March 2024. However, it is to be noted that as Affidavit-in-Reply is on the merits of the case and as the first Bail Application has been allowed to be withdrawn by Order dated 6th March 2019, I am not considering the Bail Application on merits. Mr. Gaikwad, learned A.P.P. submitted that 10 witnesses are already examined by the prosecution and therefore the trial is likely to conclude within a short period.

5. Mr. Soni, learned Counsel for the Applicant has produced a list of witnesses as submitted by learned A.P.P. before the learned Trial Court bearing Exhibit 82 in S.C.C. No. 409 of 2016. As per the said list, there are more than 17 witnesses proposed to be examined by the prosecution. Serial No. 17 of the said list mentions that all Investigation

Officers will be examined i.e. total three Investigating Officers. Thus, prima facie, there are 20 witnesses proposed to be examined by the prosecution and out of that 10 witnesses have been examined until now.

6. Mr. Soni, learned Counsel also tenders the Roznama which shows that on many occasions, the trial was adjourned as the witness was absent. It is significant to note that on 25th January 2024 as the witness was absent, next date was given as 9th February 2024. On 9th February 2024, although the witness was present but as the Court was busy in recording evidence in another case, the Session Case was adjourned to 2nd March 2024. Roznama dated 27th November 2023 also shows that *inter alia* as the matter was not assigned to regular A.P.P., time was taken and the matter was adjourned to 16th December 2023.

7. Mr. Soni, learned Counsel pointed out that the witness was lastly examined on 28th July 2023 and thereafter for eight months none of the witness is examined. He therefore submitted that this is a case where the Applicant's fundamental right of speedy justice has been violated.

8. 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.

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

ORDER

(a) The Applicant - Nitin Bhausaheb Sable be released on bail in connection with C.R. No.26 of 2016 registered with the Shirur Police Station, District - Pune on his furnishing P. R. Bond of Rs.10,000/- with one or two local sureties in the like amount.

(b) 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.

(c) The Applicant shall report to the Shirur Police Station, District - Pune as and when called by Police.

(d) 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

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

disclosing the facts to the Court or to any Police personnel.

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

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

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

13. The Bail Application is disposed of accordingly.

14. It is clarified that the 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.]