

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

BAIL APPLICATION NO.1605 OF 2024

Dnyandev Dattatray Patil
@ Raju Patil

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Shriganesh Salba Sawalkar a/w Ms. Gayatri Yadav, Ms. Poonam Karande, Ms. Manjiree Dhuri & Ms. Megha Shelke, for the Applicant.
Mr. P. D. Gharat, SPP a/w Ms. S. S. Kaushik, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED: 30th APRIL 2024

P. C.:

1. Heard Mr. Sawalkar, learned Counsel for the Applicant and Mr. Gharat, learned SPP for the Respondent-State.
2. This is the third Bail Application preferred under Section 439 of the *Code of Criminal Procedure, 1973* ("CrPC"). The relevant details are as follows:

1	C.R. No.	29 of 2017
2	Date of registration of F.I.R.	31/01/2017
3	Name of Police Station	Kalamboli, District-Raigad
4	Section/s invoked	302, 364, 323, 504, 506(2) & 34 of the <i>I.P.C., 1860</i> .
5	Date of incident	11/04/2016
6	Date of arrest	10/12/2017

7	Date of filing Charge-sheet	30/01/2018
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3. It is the main contention of Mr. Sawalkar, learned Counsel for the Applicant that the Applicant is entitled to be released on bail as the Applicant's fundamental right to speedy trial has been violated. He submits that the Applicant is incarcerated since 10th December 2017 and that the trial has not concluded till date. The trial is at the stage of 'recording of statement' under Section 313 of the CrPC since 16th February 2024. He points out several Orders passed by this Court by which extension of time was granted to conclude the trial.

4. On the other hand, Mr. Gharat, learned SPP submits that the trial is delayed as the trial is being conducted in the Sessions Court at Panvel, District - Raigad and that all the Accused have engaged Advocates from Thane. As per the request of learned Counsel for the Accused and with the consent of all the Accused, the trial is conducted on every Friday and therefore there is a delay in concluding the trial. He submits that the delay in the trial is attributed to the present Applicant and other Accused. He submits that in any case the trial is at the stage of 'recording of statement' under Section 313 of CrPC and that the trial is likely to conclude by 31st August 2024.

5. Perusal of the record shows that the 1st Bail Application was rejected by a learned Single Judge [Smt. Anuja Prabhudessai, J.] by Order dated 28th September 2018 passed in Bail Application No.1313 of

2018. The learned Single Judge while rejecting the Application seeking bail has recorded the following observations in paragraph No.13 therein:

*“13. The material on record prima facie indicates that the Applicant is involved in commission of the crime. **The offence is not only serious but is of heinous nature.** In my considered view releasing the Applicant at this stage will hamper the trial. Considering the above facts and circumstances, this is not a fit case for grant of bail. Hence, the application is rejected. Considering the fact that the Applicant is in custody since 2017, trial is expedited. The learned Sessions Judge is directed to conclude the trial as expeditiously as possible and in any event within a period of one year from the date of receipt of copy of this order.”*

(Emphasis added)

6. By said Order dated 28th September 2018, the learned Trial Judge was directed to conclude the trial expeditiously within a period of one year. Thereafter, by Order dated 24th January 2020 passed by a learned Single Judge, a 1 year extension was granted to conclude the trial. In the meanwhile, from March 2020, the regular Court working was affected due to the COVID-19 pandemic. By further Order dated 16th July 2021, another 1 year extension was granted by a learned Single Judge to conclude the trial. Thereafter, the Applicant preferred the 2nd Bail Application in this Court bearing Bail Application No.811 of 2021. The said Application was rejected by a learned Single Judge [Smt. Anuja Prabhudessai, J.] by Order dated 15th September 2021 *inter alia* observing in paragraph No.6 as follows:

“6. It is true that the delay in the trial often infringes the right to speedy trial. Hence this court, while rejecting the previous bail application, had directed the sessions court to

*expedite the trial. It is however to be noted that subsequent to the said order there was national lock down due to Covid-19 pandemic. The records, more particularly the Roznama, which has been placed on record, indicates that the trial has commenced and efforts are being made to conclude the trial expeditiously. The records reveal that the trial has been adjourned on several dates, but this was mainly due to the absence of witnesses or at the request of the co-accused. There is no deliberate attempt to delay the trial and to frustrate the right of the accused for speedy trial. **Considering the gravity and heinousness of the crime and balancing the right of speedy trial vis-à-vis societal interest, in my considered view, this is not a fit case to grant bail solely on the ground of the delay.***

(Emphasis added)

7. Thereafter, a learned Single Judge granted a further extension of 9 months by Order dated 20th September 2022 and an extension of 8 months by Order dated 4th September 2023, to conclude the trial. As the trial is not concluded yet, the Applicant has filed the present Application i.e. the 3rd Bail Application.

8. However, it is to be noted that the 1st Bail Application was rejected by a learned Single Judge by Order dated 28th September 2018 by specifically observing that the material on record *prima facie* indicates that the Applicant is involved in commission of the offence in question and that the offence is not only serious but is also of a heinous nature. The 2nd Bail Application was rejected on the ground that the delay in concluding the trial is *inter alia* because of adjournments sought at the request of the Accused.

9. As noted above, Mr. Gharat, learned SPP has stated that the trial

hearing is conducted on every friday by the learned Sessions Judge at the request made by all learned Advocates representing the Accused persons in the Trial Court as they all travel from Thane to Panvel. Therefore, there is no substance in the contention of learned Counsel for the Applicant that the trial is delayed. However, in any case, Mr. Gharat, learned SPP states that all efforts will be made to conclude the trial on or before 31st August 2024.

10. It is also required to be noted that the Supreme Court of India in its decision in *Gurwinder Singh v. State of Punjab*¹ has held that mere delay in trial pertaining to grave offences cannot be used as a ground to grant bail. As noted herein above, the learned Single Judge while rejecting the 1st Bail Application has clearly held that the offence is not only serious but is also of a heinous nature.

11. Accordingly, no case is made out for granting bail. However, the Applicant is granted liberty to file a fresh Bail Application if the trial is not concluded by 31st August 2024.

12. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]

1 2024 SCC OnLine SC 109