

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

BAIL APPLICATION NO. 1662 OF 2024

Sanjay Anant Mohol

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Bhushan Raut a/w. Mr. Vaibhav Lawande, for the Applicant.
Mr. P. P. Malshe, APP, for the Respondent – State.
Mr. Arjun Naikwade PSI, present.

**CORAM: MADHAV J. JAMDAR, J.
DATE: 24.04.2024**

P. C.

1. Heard Mr. Raut, learned Counsel for the Applicant and Mr. Malshe, 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.	33 of 2016
2.	Date of registration of F.I.R.	23.02.2016
3.	Name of Police Station	Alankar, Pune
4.	Section invoked	302 r/w. 34 of the I.P.C., 1860
5.	Date of incident	23.02.2016
6.	Date of arrest	23.02.2016
7.	Date of filing of Charge-sheet	01.05.2016

3. As per the prosecution case, the present Applicant was in a relationship with one Ms. Sarika Chavan residing in a building named Kedar Empire. Therefore, the Applicant used to frequently visit the

residence of Ms. Chavan. The people residing in the Kedar Empire were objecting to the said conduct of the Applicant. As per the statement of Mr. Jitendra Pundlik Aher dated 02.03.2016, his friends who were residents of Kedar Empire namely Santosh Mohite, Sunil Malve, Amol Jadhav and Sagar Shinde have assaulted the deceased in the presence of Ms. Chavan in or about the year 2014-15. Therefore, the Applicant – Sanjay Mohol held a grudge against these persons.

4. As per the prosecution case, on 23.02.2016 at about 10.00 a.m., the deceased – Sagar Shinde was riding a two-wheeler. At that time, the present Applicant-Accused No.1 and Sambhaji Kamble-Accused No.2 who were travelling in a car, deliberately collided with the said two-wheeler. Due to the said collision, the deceased – Sagar Shinde fell down after which he attempted to run away. However, at that time, Accused No. 2 – Sambhaji Kamble held and restrained Sagar Shinde and the present Applicant then assaulted the deceased with a 'koyta'. Thereafter, Accused No.2-Sambhaji Kamble also assaulted the deceased with a 'koyta'.

5. At the outset, Mr. Raut, learned Counsel for the Applicant submitted that the Applicant is not seeking bail on merits. However, he submitted that the Applicant is languishing in jail for more than eight years and two months and that the trial has not concluded yet. He submitted that as per the Charge-sheet, there are 32 witnesses proposed to be examined by the prosecution. Presently, the 9th

witness is being examined by the prosecution. He therefore prayed that the Applicant be released on bail on the ground of prolonged incarceration.

6. On the other hand, Mr. Malshe, learned APP for the Respondent – State vehemently opposed the Bail Application. He submitted that there are eye-witnesses to the incident and that the incident has actually been captured on CCTV. He submitted that at this stage, the prosecution is examining the 9th witness. He pointed out various statements including the statements of Jitendra Pundlik Aher (Page No. 80) dated 02.03.2016, Sarika Sagar Shinde (Page No. 89) dated 22.03.2016, Raju Baban Pawar (Page No. 127) dated 06.04.2016 and Ramesh Sakharam Anarase (Page No. 54) dated 25.02.2016. He, therefore, submitted that the Bail Application be rejected.

7. It is to be noted that Mr. Raut, learned Counsel for the Applicant at the outset submitted that the Applicant is not seeking bail on merits and that he is seeking bail on the ground of prolonged incarceration. The factual position on record shows that the incident in question has taken place on 23.02.2016. The Applicant was apprehended on 23.02.2016. The Charge-sheet was filed on 01.05.2016 and till date, even after eight years and two months post the arrest of the Applicant, the trial has not yet concluded.

8. Mr. Malshe, learned APP submitted that although as per the Charge-sheet, 34 witnesses are proposed to be examined by the

prosecution, however, the prosecution intends to examine only 14 witnesses, out of which 8 witnesses have been examined.

9. As far as the progress of the trial is concerned, charge was framed on 18.09.2017 and presently, the 9th witness is being examined by the prosecution. Mr. Raut, learned Counsel for the Applicant has tendered a chart. The same is reproduced hereinbelow :-

PROGRESS OF TRIAL

Date of framing the charge	18.09.2017
P. W. 1	Examination-in-chief was conducted on 21.09.2028 and 18.12.2019 and cross examination was conducted on 11.08.2022.
P. W. 2	Examination-in-chief was conducted on 24.02.2020 and cross examination was conducted on 15.09.2022.
P. W. 3	Examination-in-chief was conducted on 30.09.2022.
P. W. 4	Examination-in-chief was conducted on 17.10.2022 and cross examination was conducted on 20.10.2022 and 08.11.2022.
P. W. 5	Examination-in-chief and cross examination was conducted on 21.03.2023.
P. W. 6	Examination-in-chief was conducted on 18.04.2023 and cross examination was conducted on 19.05.2023.
P. W. 7	Examination-in-chief and cross examination was conducted on 03.07.2023.
P. W. 8	Examination-in-chief and cross examination was conducted on 03.10.2023.
P. W. 9	Examination-in-chief was conducted on 04.04.2024.

The above chart clearly shows that it took about 6 years for examining 8 witnesses. Considering the progress of the trial, it took about 6 years for examining 8th witnesses. The trial is unlikely to

conclude any time soon and is likely to take a considerably long time.

10. 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

11. Accordingly, the Applicant is entitled to be released on bail on the ground of violation of his fundamental right to speedy trial.

12. However, in the facts and circumstances of this case and particularly in the light of the statement of Ms. Sarika Sagar Shinde (Page No. 89) dated 22.03.2016 there is some apprehension expressed by Mr. Malshe, learned APP regarding tampering of evidence. Mr. Raut, learned Counsel for the Applicant states that therefore the Applicant will not reside within District - Pune and that the Applicant will reside at village – Bangarde, Taluka – Shrigonda, District – Ahmednagar and will attend the Shrigonda Police Station, Ahmednagar.

13. There are no other antecedents.

14. The Applicant does not appear to be at risk of flight.

15. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

16. In view thereof, the following order:-

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

ORDER

(a) The Applicant - Sanjay Anant Mohol be released on bail in connection with C.R. No.33 of 2016 registered with the Alankar Police Station, District – Pune on his furnishing P.R. Bond of Rs.50,000/- with one or two solvent sureties in the like amount.

(b) The Applicant shall not enter District – Pune 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 Shrigonda Police Station, District – Ahmednagar once a week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Shrigonda Police Station, District – Ahmednagar 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.

17. The Bail Application is disposed of accordingly.

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

[MADHAV J. JAMDAR, J.]