

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

BAIL APPLICATION NO. 1728 OF 2024

Vishal *alias* Sampat
Kondiba Thombare

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Rupesh Zade a/w. Ms. Priyanka Gupta, Advocates, for Applicant.
Mr. P. P. Malshe, APP, for Respondent – State.

CORAM: MADHAV J. JAMDAR, J.

DATE: 06.05.2024

P. C.

1. Heard Mr. Zade, 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.	455 of 2018
2.	Date of registration of F.I.R.	02.09.2018
3.	Name of Police Station	Baramati Taluka, Pune-District
4.	Sections invoked	307, 324, 341, 504, 506 r/w. 34 of the I.P.C., 1860
5.	Date of incident	01.09.2018
6.	Date of arrest	02.09.2018
7.	Date of filing of Charge-sheet	

3. This is the third Bail Application preferred by the Applicant. The first Bail Application was allowed to be withdrawn by a learned

Single Judge (C. V. Bhadang, J.) by Order dated 17.01.2022 passed in B. A. No.2713 of 2021. In the Second Bail Application, after noticing that the trial had commenced and PW.-1 was under examination, a learned Single Judge (M. S. Karnik, J.) had passed the Order dated 05.09.2023 in B. A. No.480 of 2023. Considering the gravity of the accusations, a learned Single Judge had adjourned the matter to 31.10.2023 and requested the Trial Court to expedite the trial.

4. The said second Bail Application, being B. A. No.480 of 2023 was listed before this Court on 04.01.2024 and the learned APP, on instructions, made a statement that one witness has been examined and three more witnesses would be examined and the trial would be concluded within a period of two months. However, liberty was granted to the Applicant to prefer a fresh Bail Application if the trial did not conclude by 31.03.2024. Pursuant to the said liberty, the present Bail Application was filed on 10.04.2024.

5. On the last occasion, learned APP submitted that there are 15 witnesses proposed to be examined and the earlier statement recorded in the Order dated 04.01.2024 in paragraph no. 6 is not correct. Therefore, he had sought time to file affidavit. Accordingly, the Affidavit of Dattatraya Bhanudas Lendave, Police Sub-Inspector attached to the Baramati Taluka Police Station, Pune dated 03.05.2024 was filed stating therein as under:

“1. I say that the chargesheet has been filed on 09/01/2019 before Learned Addl. District and Sessions Court, Baramati and charge has framed on 27/04/2022.

2. I further say that there are total 17 witnesses as per the chargesheet and out of that 2 witnesses are examined and remaining 15 witnesses are yet to be examined.

3. I further say that inadvertently I have made wrong statement about the number of witness. I was stated that there are 5 witnesses but actually there are 17 witnesses and trial is going on before Hon'ble Justice R. K. Deshpande, Addl. District and Sessions Court, Baramati.

4. I further say that I have inadvertently made wrong statement in respect of number of witnesses. I am filing my unconditional apology about my statement in respect of number of witness."

6. Thus, it is clear that the incident in question has taken place on 01.09.2018. The F.I.R. was lodged on 02.09.2018. The Applicant was apprehended on 02.09.2018. The charge was framed on 27.04.2022. Till date, only two witnesses have been examined and there are in all 15 witnesses remained to be examined.

7. Thus, this is a case where the Applicant is incarcerated since more than 5 years and 7 months. Except framing of charge on 27.04.2022 and examination of two witnesses, there is no progress in the trial. It is to be noted that only two witnesses have been examined.

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 device such a procedure as would ensure speedy trial to the

Accused.¹

9. Thus, this is a case where the Applicant's fundamental right of speedy trial is violated.

10. The trial is unlikely to conclude any time soon and is likely to take a considerably long time.

11. Mr. Zade, learned Counsel for the Applicant submitted that there is one antecedent however, in that case, the Applicant has been acquitted.

12. Mr. Zade, learned Counsel for the Applicant states that as several witnesses are residing in the same locality as that of the Applicant, the Applicant will therefore not reside within Taluka - Baramati and that the Applicant will reside at the residence of Mr. Manoj Khandekar, Hadapsar, Pune and will attend the Hadapsar Police Station, Pune.

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

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

15. In view thereof, the following order:

ORDER

(a) The Applicant - Vishal *alias* Sampat Kondiba Thombare be released on bail in connection with C.R. No.455 of 2018 registered with the Baramati Taluka Police Station, District - Pune on his furnishing P.R. Bond of

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

Rs.25,000/- with one or two solvent sureties in the like amount.

(b) The Applicant shall not enter the Taluka – Baramti 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 Hadapsar Police Station, District – Pune once in two weeks, on Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Hadapsar Police Station, District – Pune 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.

16. The Bail Application is disposed of accordingly.

17. 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.]