

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

CRIMINAL BAIL APPLICATION NO. 1786 OF 2024

1. Shaikh Yusuf Shaikh Kadar *alias* ...Applicants
Maniyar

2. Shaikh Sadaque Shaikh Kadar

Versus

The State of Maharashtra ...Respondent

Mr. Aniket Vagal a/w Divesh H. Mehani, Kunal N. Pednekar, Savvy Kolhekar, Advocates, for the Applicants.
Mr. S.M. Mangaonkar, APP, for Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : 2nd May 2024

P. C.

1. Heard Mr. Vagal, learned Counsel for the Applicants and Mr. Mangaonkar, 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.	114 of 2018
2.	Date of registration of F.I.R.	27 th June 2018
3.	Name of Police Station	Nandgaon, District-Nashik
4.	Section/s invoked	302, 120(B), 143, 147, 149 of <i>I.P.C., 1860</i> ;
5.	Date of incident	26 th June 2018

6.	Date of arrest	27 th June 2018
7.	Date of filing of Charge-sheet	22 nd September 2018

3. At the outset, Mr. Vagal, learned Counsel for the Applicants submitted that the Applicants are seeking bail on the ground of prolonged incarceration. He submitted that by Orders dated 10th April 2024 and 18th April 2024, a learned Single Judge (M. S. Karnik, J.) has released Accused No.4 Parvej Sayyad Rafique on bail (Bail Application No.3478 of 2023) and Accused No.3 – Yakub Shaikh Kadar (Bail Application No.4205 of 2023). He submitted that a learned Single Judge has granted bail only on the ground of prolonged incarceration.

4. Perusal of the record shows that the Applicant was arrested on 27th June 2018 and till date, the trial is not concluded i.e. almost after 6 years. Although it is true that the trial is at an advanced stage, however, it is required to be noted that there are total 6 Accused and 4 Accused have been released on bail. The present Applicants are Accused Nos.1 and 2. Their role is similar to that of Accused Nos.3 and 4. Accused Nos.3 and 4 have been granted bail.

5. Mr. Mangaonkar, learned APP vehemently opposed the Bail Application. He submitted that the trial is at very advanced stage and therefore bail be not granted.

6. It is an admitted position that investigation has been completed and that Charge-sheet has been filed on 22nd September 2018. Till date

i.e. after a period of 4 years, the trial is not concluded.

7. 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

8. Mr. Vagal, learned Counsel for the Applicants states that as several witnesses are residing in the same locality as that of the Applicants, the Applicants will therefore not reside within District - Nashik and that the Applicants will reside at the residence of Shaikh Shoib Shaikh Shaqueel, at Navagaon Islampura, Behind Chajed Oil Mill, Ghat Road, Chalisgaon, Taluka – Chalisgaon, District – Jalgaon.

9. The Applicants do not appear to be at risk of flight.

10. Mr. Vagal, learned Counsel for the Applicants states that the Applicants do not have any criminal antecedents.

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

12. In view thereof, the following order:-

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

ORDER

(a) The Applicants (1) Shaikh Yusuf Shaikh Kadar *alias* Maniyar and (2) Shaikh Sadique Shaikh Kadar be released on bail in connection with C.R. No.114 of 2018 registered with the Nandgaon Police Station, Taluka - Nandgaon, District - Nashik on their furnishing P.R. Bonds of Rs.50,000/- each with one or two local solvent sureties in the like amount in each case.

(b) The Applicants shall not enter the Nashik district 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 Applicants shall furnish their cell phone numbers and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(d) The Applicants shall report to the Chalisgaon City Police Station, Taluka - Chalisgaon, District - Jalgaon once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Chalisgaon Police Station, Taluka - Chalisgaon, District - Jalgaon to communicate details thereof to the Investigating Officer.

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

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

(h) The Applicants shall surrender their passports, if any, to the Investigating Officer.

13. The Bail Application is disposed of accordingly.

14. 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.]