

Sayali Upasani

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

**SAYALI
DEEPAK
UPASANI**

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BAIL APPLICATION NO. 1299 OF 2023

Ashok Ranghunath Mukane

...Applicant

Vs.

State of Maharashtra

...Respondent

Mr. Akshay Kataria with Mr. Devang Thakkar, for Applicant.

Mr. Babu Vitthalrao Holambe Patil, APP for State- Respondent

No. 1.

CORAM:- N. J. JAMADAR, J.

DATED:- 22nd FEBRUARY, 2024.

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) This application is preferred for bail in connection with CR No. 41 of 2018, registered with Badlapur (E) Police Station, for an offence punishable under Section 307 read with Section 34 of the Indian Penal Code, 1860.
- 3) In fact this is the third application for bail. By an order dated 9th February, 2021, the first application (BA No. 3411 of

2019) was dismissed opining that there was prima facie material which disclosed the complicity of the applicant. The Court had, however, directed that if the trial did not commence on or before 30th June, 2021, the applicant should have the liberty to renew the prayer for bail.

4) The trial did not commence. The applicant referred second Bail Application (BA No. 3638 of 2023).

5) By an order dated 16th November, 2021, the said application came to be dismissed with liberty to the applicant to approach the trial Court. It seems the trial Court rejected the application on 1st February, 2022.

6) The applicant has been in custody since 8th March, 2018. Almost six years period have elapsed.

7) The learned APP, on instructions, submits that though the charge has been framed yet the recording of evidence has not commenced.

8) In the backdrop of the period of incarceration, having regard to the punishment which the offence under Section 307 of the Penal Code entails, the further detention of the applicant as an under-trial prisoner would be wholly unjustifiable and unwarranted. Having regard to the pace of the proceedings

before the Court of Session, it is extremely unlikely that the trial can be concluded within a reasonable period.

9) I am, therefore, inclined to exercise the discretion on account of long period of incarceration as an under-trial prisoner without a real prospect of the expeditious conclusion of trial as it infringes the right to speedy trial, which is a facet of the fundamental right guaranteed under Article 21 of the Constitution of India.

10) Hence, the following order.

: O R D E R :

(i) The application stands allowed.

(ii) The applicant Ashok Ranghunath Mukane be released on bail in CR No. 41 of 2018, registered with Badlapur (E) Police Station, for an offence punishable under Section 307 read with Section 34 of the Indian Penal Code, 1860, on furnishing a P.R. Bond in the sum of Rs.60,000/- with one or two sureties in the like amount, to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence at the Badlapur (E) Police Station on the first Monday of every month between 10.00 am to 12.00 noon for a period of two years

or till conclusion of trial, whichever is earlier.

(iv) The applicant shall not contact the first informant, injured, any other relatives of the first informant or any of the persons acquainted with the facts of the case.

(v) The applicant shall not enter the limits of Badlapur till the conclusion of the trial except for the purpose of marking presence at the Badlapur Police Station.

(vi) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial court shall not be influenced by any of the observations made hereinabove.

[N. J. JAMADAR, J.]