

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

CRIMINAL BAIL APPLICATION NO. 1975 OF 2024

Juvansing Sakariya Vasuniya

...Applicant

Versus

The State of Maharashtra

...Respondent

None for the Applicant.

Mr. Pratik Kalantri (through V.C.)- Amicus Curiae.

Ms. S.S. Kaushik, APP, for Respondent- State.

Mr. Ajit Sabale, API, Wada Police Station, Palghar- present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 10th May 2024

P. C.

1. This Bail Application is filed through jail.
2. Accordingly by Order dated 8th May 2024, this Court had appointed Mr. Pratik Kalantri, learned Counsel of this Court as Amicus.
3. Heard Mr. Kalantri, learned Amicus and Ms. Kaushik, learned APP for the State.
4. Mr. Kalantri states that the present C.R. i.e. I-129/2013 is registered with Wada Police Station-Palghar. The offences involved are punishable under Section 397 and 427 of the *Indian Penal Code, 1860* r/w 25(1), (3) of the *Arms Act, 1959* r/w Sections 3(1)(ii), 3(2), 3(4) of the *Maharashtra Control of Organised Crime Act, 1999*.
5. On the basis of the averments mentioned in the Bail Application filed through Jail, Mr. Kalantri states that the Applicant was arrested

about 11 years ago in another offence and that he was arrested in connection with the present offence on 2nd August 2021.

6. Mr. Kalantri points out the Order dated 7th February 2023 passed by a learned Single Judge (M. S. Karnik, J.) in the case of a co-Accused-Prakash Damu Kadav i.e. Accused No.1. The paragraph nos.3 and 4 of the said Order reads as under:

“3. The applicant was arrested on July 2, 2013. He is languishing in custody as an under-trial prisoner for more than nine years and five months. The applicant’s application for bail was rejected by the trial Court on September 8, 2015. I am informed that even the Charge has not been framed in the trial proceedings.

*4. Learned counsel for the applicant relied upon the decision of this Court in the case of **Pravin Dilip Waghela vs. State of Maharashtra**¹ where this Court observed that the embargo under the provisions of Special Acts shall not be an impediment in grant of bail by this Court on the ground of incarceration of accused in custody for a long time, more particularly in the light of various decisions of Supreme Court.”*

7. This case was lodged in the year 2013. Till date, even the Charge has not been framed and there is no progress in the trial. As per the Charge-sheet, there are about 44 witnesses proposed to be examined by the prosecution.

8. Although the date of the arrest of the Applicant in the previous offence lodged in the State of Madhya Pradesh is not known, however, it appears that the Applicant incarcerated since 11 years. In any case, the

¹ Cri. B.A. No.523/2022 decided on April 26, 2022

Applicant is incarcerated in this particular case since 2 years and 9 months and there is no possibility of conclusion of the trial in near future.

9. 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.²

10. Ms. Kaushik, learned APP vehemently opposed the Bail Application and stated that there are about 8 antecedents, however, 3 of the antecedents are of the year 2007 and 5 antecedents are of the year 2013. Therefore, it is clear that the antecedents are very old and the same are not an impediment in granting bail. As there is no likelihood of completion of trial in near future, a case is made out for grant of bail. However, in view of the fact that there are about 8 antecedents and as 3 co-Accused who have been released on bail are not attending the trial and as non-bailable warrants are required to be issued by the Court, stringent conditions are required to be imposed on the Applicant while enlarging the Applicant on bail.

² Hussainara Khatoon (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

11. The Applicant does not appear to be at risk of flight.
12. Accordingly, the Applicant can be enlarged on bail by imposing conditions.
13. In view thereof, the following order:

ORDER

(a) The Applicant - Juvansing Sakariya Vasuniya be released on bail in connection with C.R. No.129 of 2013 registered with the Wada Police Station, District-Palghar on his furnishing P. R. Bond of Rs.25,000/- with one or two solvent sureties in the like amount.

(b) 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.

(c) The Applicant shall report to the Wada Police Station, District - Palghar on the first Sunday of every month between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.

(d) 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.

(e) The Applicant shall not tamper with the prosecution

evidence and shall not contact or influence the Complainant or any prosecution witness in any manner.

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

(g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

14. The Bail Application is disposed of accordingly.

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

16. This Court places on record its appreciation of the assistance rendered by Mr. Pratik Kalantri, learned Amicus Curiae.

[MADHAV J. JAMDAR, J.]