

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2185 OF 2023

Mr. Rajesh Santosh

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aditya Sharma, for the Applicant.

Ms. Veera Shinde, APP, for the Respondent-State.

Mr. Ramesh Vaidya, Police Constable (HC-1622), Kharghar Police Station-Navi Mumbai, present.

CORAM : MADHAV J. JAMDAR, J.
DATED : JANUARY 24, 2024

P.C.:

1. Heard Mr. Sharma, learned Counsel appearing for the Applicant and Ms. Shinde, learned APP appearing 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.	245 of 2016
2	Date of Registration of F.I.R.	08/08/2016
3	Name of Police Station	Kharghar Police Station, Navi Mumbai

4	Section/s invoked	489-A, 489-B, 489-C, 489-D, 489-E, 201 r/w 34 of the <i>Indian Penal Code, 1860</i> .
5	Date of Incident	08/08/2016
6	Date of Arrest	08/08/2016
7	Date of filing Charge-sheet	02/11/2016

3. By Order dated 21st June 2018 passed in Bail Application No.205 of 2018, a learned Single Judge of this Court [Coram: Smt. Sadhana S. Jadhav, J] has rejected the Bail Application of the present Applicant.

4. An another co-accused namely Ashish Kamalakar Pednekar has been granted bail by the Hon'ble Supreme Court by Order dated 14th December 2023 passed in Petition(s) for Special Leave to Appeal (Crl.) No(s).12272/2023. The said Order reads as under:-

“Heard Mr. Aditya Sharma, learned counsel appearing for the petitioner. It is pointed out by the learned counsel that the petitioner who is seeking bail is in custody for last about 7 years since he was arrested on 16.08.2016 and the Court is yet to frame charges in the case arising out of the FIR No.245/2016.

2. On the other hand, the State counsel would submit that the petitioner has got criminal antecedents and the accused No.9 - Pradish Prabhakaran is still absconding. The seriousness of the crime is also highlighted by the State Counsel to say that bail should not be granted.

3. *Under Section 489D IPC, the maximum sentence is imprisonment for life.*

4. *While appreciating that it is a serious crime in which the petitioner is named as an accused, it cannot also be overlooked that he has been in custody for last 7 years. As the charges are yet to be framed in the case, the Trial is unlikely to conclude on a near date. It is also pointed out that the Custody Certificate dated 12.08.2023 of the Taloja Central Prison, Navi Mumbai, shows that petitioner has secured bail in the other cases.*

5. *Going by the above, we deem it appropriate to grant bail to the petitioner in connection with the case arising out of FIR No.245 of 2016. Appropriate bail condition be stipulated by the learned Sessions Judge at Panvel. It is however made clear that if the petitioner is wanted in any other case, he should not be released on the basis of this order.*

6. *With the above, the Special Leave Petition is disposed of.*

7. *Pending application(s), if any, stand closed."*

(Emphasis added)

5. The observations of the Hon'ble Supreme Court in the said case of Ashish Kamalakar Pednekar are squarely applicable to the present case. The Applicant is also involved in the same crime as that of the Petitioner before the Supreme Court. It is the contention of learned Counsel appearing for the Applicant that, in fact a major role in the crime is that of Ashish Kamalakar Pednekar i.e. Petitioner before the Supreme Court. However, the

said contentions need not be examined as the accused has been incarcerated since 8th August 2016 i.e. more than 7 years and 6 months. There are a total of 9 accused. All other co-accused have been enlarged on bail.

6. There is one antecedent. However, in the said case, the accused-Ashish Kamalakar Pednekar has been granted bail. Therefore, this is a fit case where bail may be granted.

7. Learned Counsel appearing for the Applicant states that the trial has not yet started.

8. It is an admitted position that the investigation has been completed and that the Charge-sheet has been filed on 2nd November 2016. There are several witnesses as per the Charge-sheet. The trial has not yet started even after a period of more than 7 years. The trial is likely to take a considerable time.

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

10. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

(a) The Applicant-Mr. Rajesh Santosh be released on bail in connection with C. R. No.245 of 2016 registered with the Kharghar Police Station, Taluka-Panvel District-Raigad on his furnishing P. R. Bond of Rs.25000/- 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 Kharghar Police Station, Taluka-Panvel District-Raigad 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 evidence and shall not contact or influence the Complainant or any witnesses in any manner.
- (f) The Applicant shall attend the trial regularly.
- (g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

11. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]