

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

**BAIL APPLICATION NO.2198 OF 2023**

Ashraf Iliyas Sayyad

.Applicant

*Versus*

The State of Maharashtra

.Respondent

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Dr. Uday P. Warunjikar a/w. Ms. Sonali Chavan, Advocates for the Applicant.

Mr. Sameer M. Mangaonkar, APP, for the Respondent – State.

Ms. Bharati Ingole, P.S.I., Koregaon Park Police Station, Pune, present.

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**CORAM : MADHAV J. JAMDAR, J.**

**DATE : 06.03.2024**

**P. C.**

1. Heard Dr. Warunjikar a/w. Ms. Chavan, learned Counsel appearing for the Applicant and Mr. Mangaonkar, 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.                      | 298 of 2019                             |
| 2. | Date of registration of F.I.R. | 11.12.2019                              |
| 3. | Name of Police Station         | Koregaon Park Police Station,<br>Pune   |
| 4. | Sections invoked               | 302, 201 r/w. 34 of the I.P.C.,<br>1860 |
| 5. | Date of incident               | 09.12.2019                              |
| 6. | Date of arrest                 | 11.12.2019                              |

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|----|--------------------------------|------------|
| 7. | Date of filing of Charge-sheet | 06.03.2020 |
|----|--------------------------------|------------|

3. At the outset, it is to be noted that this is the second bail Application. The first Bail Application was decided by a learned Single Judge [Vinay Joshi, J.] by Order dated 18.04.2022 passed in B. A. No.1326 of 2021. As the Hon'ble Shri Justice Vinay Joshi is at Nagpur Bench, office has placed this matter before this Court pursuant to the Administrative Order dated 08.02.2024.

4. Learned Counsel appearing for the Applicant submitted that the Applicant has been arrested on 11.12.2019. He is behind bars for more than four years and four months. It is further submitted that although the Applicant was arrested on 11.12.2019 and Charge-sheet was filed on 06.03.2020, there is no further progress in the trial. Even charge is also not framed. It is further submitted that there are 27 witnesses proposed to be examined by the prosecution. Therefore, the trial will not conclude immediately and it will take considerable time. Learned Counsel appearing for the Applicant submitted that speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. In support of said contention, learned Counsel has relied on the decision of the Supreme Court of India in the case of *Vakil Prasad Singh v. State of Bihar*<sup>1</sup> and *Hussainara Khatoon*

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<sup>1</sup> (2009) 3 SCC 355

(IV) v. Home Secy., State of Bihar<sup>2</sup>. It is submitted that the Applicant is entitled to be released on bail.

5. On the other hand, Mr. Mangaonkar, learned APP appearing for the Respondent – State vehemently opposed the Bail Application. He submitted that this is the second bail Application. The first bail application was rejected by Order dated 18.04.2022 passed by a learned Single Judge by giving elaborate reasons. Therefore, he submitted that the Applicant may not be granted bail. However, after taking instructions he submitted that there is no progress in the trial and even charge is also not framed yet. There are no antecedents.

6. Learned Counsel appearing for the Applicant is right in contending that speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India.

7. In this case, although the Applicant is incarcerated since more than four years and three months, the trial has not yet commenced. Charge is also not framed yet. 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. Therefore, the Applicant is entitled for bail.

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<sup>2</sup> (1980) 1 SCC 98

8. The trial is likely to take a considerably long time.
9. The Applicant does not have any criminal antecedents.
10. The Applicant does not appear to be at risk of flight.
11. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:-

**ORDER**

- (a) The Applicant - Ashraf Iliyas Sayyad be released on bail in connection with C. R. No.298 of 2019 registered with the Koregaon Park Police Station, District - Pune 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 Koregaon Park Police Station, District - Pune once in every month on the first Sunday 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 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.

12. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]