

Arjun

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

BAIL APPLICATION NO.2401 OF 2023

Anthony Muthu @ Gangadhar

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Pooja Pall, Amicus Curiae, for the Applicant.

Mr. Prasanna P. Malshe, APP, for the Respondent-State.

CORAM : MADHAV J. JAMDAR, J.

DATED : MARCH 05, 2024

P.C.:

1. Heard Ms. Pooja Pall, learned Counsel appointed as Amicus Curiae for the Applicant and Mr. Malshe, 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.	90 of 2015
2	Name of Police Station	Nerul Police Station, District-Thane
3	Section/s invoked	395, 397, 333 & 353 of the <i>I.P.C., 1860</i> ; 4 r/w 25 of the <i>Arms Act, 1959</i> ; 37(1) of the <i>Maharashtra police Act, 1951</i> .

4	Date of arrest	26/11/2015
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3. Ms. Pooja Pall, learned Counsel appointed as *Amicus Curiae* submitted that the Applicant was arrested on 26th November 2015 and the Applicant is incarcerated since about 8 years and 3 months. She submitted that there is no progress in the trial and even the charge is also not framed yet. She therefore submitted that the Applicant is entitled to be released on bail.

4. On the other hand, Mr. Malshe, learned APP strongly opposed the Bail Application. He submitted that the charge is framed and the next date is 14th March 2024. He submitted that there is another antecedent of the year 2015 bearing C.R. No.25 of 2015 registered with Shanipeth Police Station, Jalgaon for the offence punishable under Sections 395, 397 & 34 of the *Indian Penal Code, 1860*.

5. A perusal of the record shows that F.I.R. of the present case was lodged in the year 2015. The Applicant was arrested on 26th November 2015. There is no progress in the trial. The Applicant is incarcerated since about 8 years and 3 months.

6. 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 As there is violation of fundamental right of the Applicant guaranteed under Article 21 of the Constitution of India, the Applicant is entitled for bail.

7. It is an admitted position that investigation has been completed. The trial is likely to take a considerably long time.

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

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

ORDER

- (a) The Applicant-Appu Anthony Mutthu @ Gangadhar @ Appu Goti be released on bail in connection with C.R. No.90 of 2015 registered with the Nerul Police Station, District-Thane on his furnishing P.R. Bond of Rs.10,000/- with one or two sureties in the like amount.
- (b) The Applicant is permitted to give cash sureties for a period of three months in lieu of sureties.
- (c) 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.
- (d) The Applicant shall report to the Nerul Police Station, District-Thane once in a month i.e. the first Sunday of every month between 11.00 a.m. and 1.00 p.m. until the conclusion of the trial.
- (e) The Applicant shall not directly or indirectly make any

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

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 Applicant shall not tamper with the evidence and shall not contact or influence the Complainant or any witness in any manner.
- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

10. The Bail Application is disposed of accordingly.

11. It is clarified that the observations made herein are *prima facie* and the trial Court shall decide the case on its merits and uninfluenced by the observations made in this Order.

12. This Court places on record its appreciation for the assistance rendered by Ms. Pooja Pall, learned Counsel appointed as *Amicus Curiae*. Professional charges be paid to her as per rules and her name be included on the Panel of Advocates of the High Court Legal Services Committee, Mumbai.

[MADHAV J. JAMDAR, J.]