

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

BAIL APPLICATION NO. 2904 OF 2023

Atul Mukesh Chavan

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Sana Raees Khan a/w Mr. Aditya Parmar & Mr. Abhijeet Singh, for the Applicant.

Ms. S. S. Kaushik, APP, for the Respondent – State.

Mr. R. K. Bankar, A.S.I., Shikrapur Police Station, Pune (Rural), present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 12.03.2024

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1. Heard Ms. Khan, learned Counsel for the Applicant and Ms. Kaushik, 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.	174 of 2020
2.	Date of registration of F.I.R.	24.03.2020
3.	Name of Police Station	Shikrapur – Pune (Rural)
4.	Section/s invoked	302 r/w. 34 of the I.P.C., 1860
5.	Date of incident	24.03.2020
6.	Date of arrest	25.03.2020

3. This is the second Bail Application. The first Bail Application was

rejected by a learned Single Judge [Coram: Vinay Joshi, J.] by Order dated 04.05.2022 passed in B.A. No.2696 of 2021. This Bail Application is placed before me in accordance with the Administrative Order dated 08.02.2024.

4. Ms. Khan, learned Counsel appearing for the Applicant submitted that as the first Bail Application was allowed to be withdrawn, she is not making submissions on merits. However, she submitted that despite the Applicant being incarcerated since four years, neither is there any progress in the trial nor is the charge framed yet. She submitted that after rejection of the Applicant's first Bail Application in 2022, there is no progress in the trial for the last two years. She submitted that even on merits also the Applicant is not the main assailant and in fact, he has only prevented the deceased from escaping during the said assault. She submitted that the main Accused is Nikhil Kedari. She submitted that other co-Accused – Manoj Sahebrao Bhandare has been granted bail by Order dated 23.07.2020 passed by the learned Additional Sessions Judge, Pune in B.A. No.1975 of 2019. Therefore, she submitted that the bail may be granted to the Applicant on the ground of delay in conducting the trial.

5. On the other hand, Ms. Kaushik, learned APP appearing for the Respondent – State vehemently opposed the Bail Application. She

submitted that the first Bail Application was allowed to be withdrawn. Therefore, the Applicant cannot seek bail on merits. However, after taking instructions from the investigating officer, she submitted that charge is not framed yet.

6. This is a case where there are in all three Accused. The present Applicant is the Accused No.2. The only assailant is the Accused No.1 – Nikhil Kedari. The Accused No.3 - Manoj Sahebrao Bhandare has been granted bail by Order dated 23.07.2020 passed by the learned Additional Sessions Judge, Pune in B.A. No.1975 of 2019. The Applicant was apprehended on 25.03.2020. Till date i. e. after passage of about 4 years, there is no progress in the trial. Even charge is also not framed. According to the Charge-sheet, the prosecution intends to examine 32 witnesses.

7. 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 Therefore, the Applicant is entitled for bail.

8. The trial is likely to take a considerably long time.

9. The Applicant does not have any criminal antecedents.

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

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 - Atul Mukesh Chavan be released on bail in connection with C.R. No.174 of 2020 registered with the Shikrapur Police Station, Pune (Rural) on his furnishing P.R. Bond of Rs.25,000/- with one or two local 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 Shikrapur Police Station, Pune (Rural) on the first Sunday of every week 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.

13. It is clarified that the observations made herein are *prima facie* and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]