

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

BAIL APPLICATION NO. 3582 OF 2023

Ajhar *alias* Chuha Hayat **Shaikh**

.Applicant

Versus

The State of Maharashtra

.Respondent

Mr. Shreyas P. Barsawade, Advocate, for the Applicant.

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

Mr. Akash N. Vite, PSI-Khadak Police Station, Pune, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 05.04.2024

P. C.

1. Heard Mr. Barsawade, learned Counsel for the Applicant and Ms. Shinde, 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.	492 of 2017
2.	Date of registration of F.I.R.	15.12.2017
3.	Name of Police Station	Khadak, Pune
4.	Section/s invoked	Sections 8(c), 20(b)(ii)(c)(b) of the Narcotic Drugs & Psychotropic Substances Act, 1985 r/w. Sections 3(i)(ii), 3(2), 3(4), & 3(5) of the Maharashtra Control of Organised Crimes Act, 1999
5.	Date of incident	15.12.2017
6.	Date of arrest	18.12.2017
7.	Date of filing of Charge-sheet	11.06.2018

3. At the outset, Mr. Barsawade, learned Counsel for the Applicant

submitted that he is not seeking bail on merits and only seeking bail on the ground of long incarceration.

4. He submitted that there are in all nine Accused in this case. Five co-accused have been enlarged on bail on account of delay in trial. He submitted that Applicant is incarcerated since more than seven years and five months. He submitted that three co-accused have been released on bail by the Supreme Court of India and two co-accused have been released on bail by this Court on the ground of delay in trial. He pointed out the Order dated 08.05.2023 passed by the Supreme Court of India in Criminal Appeal No.1423 of 2023 in the case of *Hussain Papa Shaikh vs. The State of Maharashtra*. The said order reads as under:

“O R D E R

Leave granted.

Heard learned counsel for parties.

The appellant has been in custody for more than five years but even till date only 4 of the 53 witnesses have been examined. 33 gms. of heroine is stated to be in custody which is intermediate quantity.

In view of the aforesaid facts and circumstances, we grant bail to the appellant on terms and conditions to the satisfaction of the trial Court.”

It is the contention of Mr. Barsawade, learned Counsel for the Applicant that parity is applicable to the present Applicant.

5. On the other hand, Ms. Shinde, learned APP for the Respondent-State submitted that the trial has now commenced. 5 witnesses have been examined and there are 7-8 witnesses yet to be examined by the prosecution. She submitted that the trial will

conclude shortly.

6. However, it is to be noted that the Supreme Court of India passed the Order on 08.05.2023. The Supreme Court in the aforesaid Order has recorded that only four witnesses have been examined. The said order was passed about one year back. Thus, it is clear that in one year, only one witness has been examined.

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. However, it is to be noted that stringent conditions are required to be imposed, as there are five other antecedents against the Applicant.

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

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

11. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

12. In view thereof, the following order:-

ORDER

(a) The Applicant - Ajhar *alias* Chuha Hayat **Shaikh** be released on bail in connection with C. R. No.492 of 2017 registered with the Khadak Police Station, Pune on his

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

furnishing P. R. Bond of Rs.50,000/- 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 Khadak Police Station, Pune on the 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.

13. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]