

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3873 OF 2023

1. Amol Duryodhan Kale
 2. Gautam alias
Gavtya Bacchu Kale
- .Applicants

Versus

The State of Maharashtra

.Respondent

Mr. Kamran S. Shaikh a/w. Mr. Rameshwar Lokhare, Mr. Sanket Karankot & Mr. Changdev S. Shingade, Advocates for Applicants
Ms. S. S. Kaushik, APP, for Respondent – State
Mr. D. A. Pawar, P. C.-B. No. 398, Shirur, Pune (Rural), present

CORAM: MADHAV J. JAMDAR, J.

DATE: 25.01.2024

P. C.

1. Heard Mr. Shaikh, learned Counsel appearing for the Applicants and Ms. Kaushik, 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.	403 of 2015
2. Date of Registration of F.I.R.	05.12.2015
3. Name of Police Station	Shirur Police Station, District - Pune
4. Sections invoked	395, 396 & 397 of the Indian

		Penal Code, 1860
5.	Date of Incident	05.12.2015
6.	Date of Arrest	08.06.2016 & 10.08.2016

3. Mr. Shaikh, learned Counsel appearing for the Applicants submitted that the Applicants are seeking regular bail not on merits but on the ground that the Applicants are under incarceration for almost seven years and four months, yet, the trial has not started. Therefore, the Applicants preferred an Application for regular bail.

4. Ms. Kaushik, learned APP appearing for the Respondent – State submitted that although the trial has not yet started even after seven years and four months, however, the material on record shows that the Applicants are involved in the crime. She also submitted that there are antecedents against Applicant No.1 – Mr. Amol Duryodhan Kale.

5. The crime in this case is lodged on 05.12.2015. Applicant No.1 – Mr. Amol Duryodhan Kale was arrested on 08.06.2016 and Applicant No.2 – Mr. Gautam *alias* Gavtya Bacchu Kale was arrested on 10.08.2016. Charge in the present case was framed on 04.12.2018. There is no further progress in the trial. As per

Charge-sheet, there are about 32 witnesses to be examined by the prosecution. The trial is likely to take a considerably long time.

6. Article 21 of the Constitution of India protects the right to life and personal liberty. It is trite law that an accused has a right to speedy trial and the same is implicit in the scope and ambit of Article 21 of the Constitution of India. In this case, although the Applicants are under incarceration for about seven years and four months, the trial has not yet commenced and not even a single witness has been examined. Therefore, there is a clear violation of the Applicant's fundamental right to speedy trial.

7. As far as Applicant No.2 – Mr. Gautam *alias* Gavtya Bacchu Kale, there are no antecedents except the present crime.

8. As far as Applicant No.1 – Mr. Amol Duryodhan Kale, there are in total five cases registered against him. The details of said antecedents are as under :-

Sr. No.	Police Station	C. R. Number	Sections
1.	Shirur Police Station	256/2012	380, 457 of the Indian Penal Code, 1860
2.	Shirur Police	219/2013	306 r/w 34 of the Indian

	Station		Penal Code, 1860
3.	Yavat Police Station	143/2011	399, 402 of the Indian Penal Code, 1860
4.	Loni Kalbhor Police Station	74/2012	380, 411 & 454 of the Indian Penal Code, 1860
5.	Loni Kalbhor Police Station	463/2012	380, 411 & 454 of the Indian Penal Code, 1860

9. It is the contention of Mr. Shaikh, learned Counsel appearing for the Applicants that insofar as Crime No. 219 of 2013 is concerned, the Applicant No. 1 has been acquitted and other registered crimes are concerned, the Applicant No. 1 has not even been made an Accused. In any case, the said offences are very old.

10. Mr. Shaikh, learned Counsel appearing for the Applicants states that as several witnesses are residing in the same locality as that of the Applicants, the Applicants will therefore not reside within Pune District. He states that the Applicant No.1 - Mr. Amol Duryodhan Kale will reside at Rahu, Taluka - Baramati, District - Pune and he will report to the Yavat Police Station, Pune. The Applicant No.2 - Mr. Gautam *alias* Gavtya Bacchu Kale will reside at Dhavalgaon, Taluka - Shrigonda, District - Ahmednagar and he will report to the Shrigonda Police Station, Ahmednagar.

11. The Applicants do not appear to be at risk of flight.
12. Accordingly, the Applicants can be enlarged on bail by imposing conditions. In view thereof, the following order:-

ORDER

(a) The Applicant No. 1 - Mr. Amol Duryodhan Kale and Applicant No. 2 - Mr. Gautam *alias* Gavtya Bacchu Kale be released on bail in connection with C. R. No.403 of 2015 registered with Shirur Police Station, Taluka-Shirur, District-Pune on their furnishing P. R. Bond of Rs.25,000/- each with one or two solvent sureties in the like amount.

(b) The Applicants shall not enter the Pune District after being released on bail, except for reporting to the Investigating Officer, if called and for attending the trial. The Applicant No. 1 - Mr. Amol Duryodhan Kale shall not enter the Pune District except Taluka Baramati, District Pune.

(c) On being released on bail, the Applicants shall furnish their cell phone numbers and residential addresses to the Investigating Officer

and shall keep the same updated, in case of any change thereto.

(d) The Applicant No.1 - Mr. Amol Duryodhan Kale shall report to the Yavat Police Station, Taluka - Yavat, District-Pune once a month, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Yavat Police Station, Taluka - Yavat, District - Pune to communicate details thereof to the Investigating Officer.

(e) The Applicant No.2 - Mr. Gautam *alias* Gavtya Bacchu Kale shall report to the Shrigonda Police Station, District - Ahmednagar and the Police Inspector of Shrigonda Police Station, Taluka - Shrigonda, District - Ahmednagar to communicate details thereof to the Investigating Officer.

(f) The Applicants 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.

(g) The Applicants shall not tamper with the

evidence and shall not contact or influence the Complainant or any witnesses in any manner.

(h) The Applicants shall attend the trial regularly. The Applicants shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(i) The Applicants shall surrender their passports, if any, to the Investigating Officer.

13. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]