

than 9 years and 9 months. It is submitted that although the charge was framed on 11.07.2022, not a single witness has been examined till date. The list of witness shows that the prosecution intends to examine 52 witnesses in the trial. On this basis, it is submitted that this Court may consider allowing the present application.

4. On the other hand, the learned APP submitted that in the present case, there is sufficient material against the applicant. In fact, the applicant had absconded after the incident and he was traced in the State of Andhra Pradesh. It is submitted that if appropriate directions are issued, the trial can be expedited. It was submitted that the possibility of the applicant again absconding and not co-operating with the trial is very high, considering the background of the applicant.

5. The admitted position on facts is that in the present case, the FIR was registered on 12.02.2015 and the applicant was arrested as far back as on 04.03.2015. Therefore, he has suffered incarceration for a period of more than 9 years and 9 months. The charge was framed more than 2 years ago on 11.07.2022 and yet, not a single witness has been examined. Summons were issued to the first few witnesses and the list of witnesses shows that the prosecution intends to examine 52 witnesses. Even if in practical terms, fewer witnesses may be examined by the prosecution, it is clear that substantial number of witnesses are intended to be examined by the prosecution. This indicates that there is hardly any possibility of the trial being completed within reasonable period of time.

6. The Supreme Court has repeatedly held and recently reiterated in the cases of *Union of India vs. K. A. Najeer* [(2021) 3 SCC 713],

Satender Kumar Antil vs. Central Bureau of Investigation and another [(2022) 10 SCC 51] and *Javed Gulam Nabi Shaikh vs. State of Maharashtra and another* (2024 SCC OnLine SC 1693), that when the accused undertrials have suffered long periods of incarceration and there is no possibility of the trial being completed within reasonable period of time, the Constitutional Courts must exercise their power to release such accused undertrials on bail. This is by recognizing the right of such accused undertrials of speedy trial, which is a facet for right to life under Article 21 of the Constitution of India.

7. Considering the aforesaid admitted facts, this Court is inclined to exercise its power as a Constitutional Court, to enlarge the applicant on bail. The apprehension expressed by the learned APP can be addressed by imposing stringent conditions on the applicant.

8. In view of the above, the application is allowed in the following terms:

- (i) The applicant shall be released on bail in connection with FIR No.I-09 of 2015 dated 12.02.2015, registered at Kulgaon Police Station, Badlapur, District Thane, on furnishing PR Bond of ₹ 25,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.
- (ii) The applicant, upon being released on bail, shall report to Kulgaon Police Station, Badlapur, District Thane, on the first and fourth Monday of each month between 10:00 a.m. and 12:00 noon during the pendency of trial.
- (iii) Upon release, within one week, the applicant shall inform the Investigating Officer as well as the trial court about his contact number and residential address and update the same in case of any change.

- (iv) The applicant shall co-operate with the trial Court in completing the proceedings expeditiously and attend the proceedings before the trial Court on each and every date, unless specifically exempted, for the reasons to be recorded in writing.
- (v) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not undertake any action that may influence the informant, witnesses and other persons concerned with the case.

9. The applicant shall be liable to face proceedings for cancellation of bail, in the event any of the aforesaid conditions is violated.

10. It is also clarified that the observations made in this order are limited to the disposal of the present bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

11. The application is disposed of.

(MANISH PITALE, J)

Priya Kambli