

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

BAIL APPLICATION NO. 530 OF 2024

Haiderali Sherali Ansari ... Applicant
Versus
The State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO. 1282 OF 2024
IN
BAIL APPLICATION NO. 530 OF 2024**

Ansari Sameena Shabad ... Applicant
Versus
The State of Maharashtra & Anr. ... Respondents

Mr. Pandit Kasar for the Applicant.
Mr. Bapu V. Holambe-Patil, APP for Respondent-State.
None for Applicant in IA/1282/2024.

**CORAM: MANISH PITALE, J.
DATE : 6th SEPTEMBER 2024**

P.C. :

. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant has approached this Court seeking bail as he was arrested on 7th October 2017 in connection with FIR No. 149 of 2017 dated 6th October 2017 registered at Bhoiwada Police Station, Bhiwandi, for offences under Sections 302, 201 and 120B read with 34 of the Indian Penal Code, 1860 (IPC).

3. It is alleged that the applicant and co-accused persons assaulted the victim, which resulted in his death.

4. The learned counsel for the applicant submits that the applicant has undergone imprisonment for almost 7 years, pending trial. It is further submitted that the applicant is now 72 years old. The charge is yet to be framed and the prosecution intends to examine 44 witnesses as per the charge-sheet. It is submitted that since there is hardly any possibility of the trial being completed within a reasonable period of time, this Court may consider enlarging the applicant on bail.

5. The learned APP submits that the material on record clearly indicates the presence of the applicant at the date and time of the incident, along with the co-accused persons. Hence, his involvement is clearly made out. The fact that the charge is yet to be framed is confirmed by the learned APP.

6. In the present case, the applicant has admittedly suffered incarceration for almost 7 years, pending trial. The statement of the informant, leading to registration of the FIR, shows the presence of the applicant at the place and time of the incident, along with the co-accused persons. But, the said statement does not show the use of weapon by the applicant in any manner. In fact, the weapons are said to have been held by the co-accused persons and recovery is also at their behest.

7. The applicant is a 72 years old person, having suffered incarceration for about 7 years. The charge-sheet cites 44 witnesses and charge is yet to be framed. There is remote possibility of the trial commencing, much less being completed within a reasonable period of time. In such circumstances, the Supreme Court and this Court has repeatedly granted relief of bail to accused under-trials only on the ground of violation of their right to speedy trial, as a facet of fundamental right guaranteed under Article 21 of the Constitution of India.

8. The Supreme Court in the case of *Union of India v/s. K. A. Najeeb*, (2021) 3 SCC 713, has recognised the power of Constitutional Courts to enlarge the accused under-trials on bail, when their right to speedy trial is violated. In a recent order in the case of *Javed Gulam Nabi Shaikh v/s. The State of Maharashtra*, 2024 SCC OnLine SC 1693, the said position of law has been reiterated.

9. Applying the said position of law to the facts of the present case, this Court is inclined to allow the present application.

10. Accordingly, the application is allowed in the following terms :

- (a) The applicant shall be released on bail in connection with FIR No. 149 of 2017 dated 6th October 2017 registered at Bhoiwada Police Station, Bhiwandi, on

furnishing P.R. Bond of Rs.50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.

- (b) The applicant shall cooperate with the trial Court for expeditious trial and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.
- (c) The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses or any other person concerned with the case.
- (d) The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

11. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

12. The application is disposed of.

13. In view of the disposal of the bail application, the Interim Application also stands disposed of.

MANISH PITALE, J.