

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 555 OF 2024**

Amol Suresh Jadhav	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Satyavrat P. Joshi a/w. Mr. Yash G. Fadtare and Mr. Ishan Paradkar, i/b. Mr. Samay S. Pawar for applicant.

Mr. Sagar R. Agarkar, APP for respondent-State.

Ms. Deepali Wagh, API, Bazarpeth Police Station, District Thane.

**CORAM : MANISH PITALE, J.
DATE : 26th NOVEMBER, 2024**

P.C. :

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

2. The applicant herein is seeking bail as he was arrested on 08.03.2017 in connection with FIR No.I-42 of 2017 dated 08.03.2017, registered at Bazarpeth Police Station, District Thane, for offences under Sections 302 and 201 of the Indian Penal Code, 1860 (IPC) and Sections 37(1) and 135 of the Maharashtra Police Act.

3. The allegation against the applicant is that he caused death of the victim by brutally assaulting him by means of a knife. The victim suffered as many as 13 injuries.

4. The earlier bail application of the applicant, bearing No.2180 of 2017 was disposed of by order dated 11.04.2018 passed by this Court (Coram: Revati Mohite Dere, J). It was recorded that when the Court was not inclined to enlarge the applicant on bail, the learned counsel then appearing for the

applicant sought permission to withdraw the application. As a consequence, the application was dismissed as withdrawn.

5. The present application is being pressed by the learned counsel appearing for the applicant, on the ground of long incarceration suffered by the applicant and there being remote possibility of the trial being completed within reasonable period of time. He relies upon the pronouncements of the Supreme Court in this regard, to contend that in the facts and circumstances of the present case, this Court may consider enlarging the applicant on bail.

6. On the other hand, the learned APP submits that there is sufficient material to show a strong *prima facie* case against the applicant. There are eye-witnesses to the incident and the extent of brutality of the assault on the victim shows that it would not be appropriate to enlarge the applicant on bail. It is submitted that efforts would be made to expedite the proceedings before the Trial Court, so that the Sessions Case is disposed of at the earliest.

7. The Supreme Court, in various pronouncements, including in the case of *Union of India vs. K. A. Najeeb* [(2021) 3 SCC 713], *Satender Kumar Antil vs. Central Bureau of Investigation* [(2022) 10 SCC 51] and in the case of *Javed Gulam Nabi Shaikh vs. State of Maharashtra and another* (2024 SCC OnLine SC 1693), has emphasized upon the right to speedy trial as a facet of right to life, under Article 21 of the Constitution of India. It is emphasized in the said judgments that even in cases involving special statutes, where the accused undertrials are required to satisfy a very high threshold to be enlarged on bail, the Constitutional Courts have power to grant bail to the accused undertrials, when they have suffered long incarceration and there is remote possibility of the trial being completed within a reasonable period of

time. This Court is examining the present application on the touchstone of the said position of law laid down and reiterated by the Supreme Court.

8. In this regard, observations made by the Trial Court itself, in its order dated 26.04.2022, while rejecting the bail application of the applicant, are relevant. The said observations read as follows:

“4] I perused the charge-sheet. It is a fact that charge is framed in the year 2018 and first witness commenced on 28.01.2020. Evidence of first witness is not yet completed. Since March, 2020 till February 2022 courts in Kalyan were not functioning to the full strength due to various SOPs issued by the Hon'ble Bombay High Court. Subsequent to February 2022 the prosecution ought to have taken substantive steps for re initiating the process of recording evidence. The complainant was present in the Court at some occasion, but due to paucity of instruments to play audio recording, recording of evidence could not commence. On perusal of the charge-sheet it reveals that there are strong circumstances against the accused which prima facie links the accused to the murder of deceased. Releasing the accused shall not be justifiable. At the same time the prosecution must take responsibility of commencing the trial and keeping witnesses present on the fixed date. The prosecution, therefore, must be directed in that regard. Accordingly, I pass the following order:

:ORDER:

- 1] Application stands rejected.
- 2] Prosecution is hereby directed to give detailed date wise program for recording of evidence of witnesses and shall abide with the said program. Failure on the part of prosecution shall be considered adversely.”

9. It is a matter of record that despite the aforesaid order passed more than 2 years ago, with specific directions, indicating that the trial shall be completed at the earliest, the prosecution has been able to examine only 5

witnesses till date. It is to be noted that the charge was framed in the present case as far back as on 28.11.2018. Although the intervening period affected by Covid-19 pandemic, did slow down the proceedings before the Courts, after the effect of Covid-19 pandemic also, there does not appear to have been any effective expeditious progress in the trial in the present case. It is a matter of record that as per the charge-sheet, the prosecution intends to examine 75 witnesses. Even if in practical terms, lesser number of witnesses are examined, it can be concluded at this stage itself that the possibility of the trial being completed within reasonable period of time, is remote.

10. It is the experience of this Court that when orders are given for expeditious, time-bound and early disposal of matters, letters and requests are repeatedly received from the Trial Courts for extension of time for abiding by the directions issued by this Court. This is because there are a number of such time-bound matters pending before the concerned Courts. The infrastructure of these Courts is inadequate to cope up with the directions given for time-bound disposal of cases and therefore, merely issuing such directions in each and every case, while dismissing the bail applications, will not meet the ends of justice.

11. This Court is convinced that the present case, in its facts and circumstances, is one such case where this Court, as a Constitutional Court, would exercise its power to enlarge the applicant on bail. It is also relevant to note that the applicant has no criminal antecedents.

12. 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-42 of 2017 dated 08.03.2017, registered at Bazarpeth Police Station,

District Thane, on furnishing PR Bond of ₹ 50,000/- and one or two sureties in the like amount to the satisfaction of the Trial Court.

- (ii) 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.
- (iii) 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.
- (iv) On the dates when the trial proceedings are listed, the applicant, upon attending the proceedings before the Trial Court, shall also report to Mahatma Phule Police Station, Kalyan, District Thane. Except for attending the said proceedings before the Trial Court, during the pendency of the trial, the applicant shall not enter Thane District.
- (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.

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

14. 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.

15. The application is disposed of.

(MANISH PITALE, J)