

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 662 OF 2024**

Mohd. Altaf Abdul Latif Sayed	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Zoheb Shaikh a/w. Mr. Aamir Malik for applicant.

Ms. Megha S. Bajoria, APP for respondent-State.

Mr. Maruti Kadam, API, Anti-Extortion Cell, D.C.B., C.I.D., Mumbai.

**CORAM : MANISH PITALE, J.
DATE : 10th SEPTEMBER, 2024**

P.C. :

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

2. The applicant is seeking bail in connection with FIR No.326 of 2018 dated 22.06.2018 registered at Anti-Extortion Cell, D.C.B., C.I.D., Mumbai for offences under Sections 387 and 120-B of the Indian Penal Code, 1860 (IPC) as also the provisions of Maharashtra Control of Organized Crime Act, 1999 and the Arms Act, 1959. The applicant was arrested on 13.08.2019 and he has remained behind bars since then.

3. Although the learned counsel for the applicant did make submissions on merits of the matter and the learned APP countered the same by referring to confessional statement of original accused No.3 turned approver as also the confessional statement of the applicant himself, this Court is inclined to

consider the present application on the aspect of long incarceration of the applicant as an undertrial.

4. A perusal of the material on record shows that the principal offence registered in the present case is Section 387 of the IPC, which pertains to putting person in fear of death or of grievous hurt, in order to commit extortion and the maximum sentence that can be imposed under the said provision is 7 years imprisonment. In the present case, the applicant has already undergone incarceration for a period of about 5 years and 1 month, indicating that substantial portion of maximum sentence that can be imposed under Section 387 of the IPC, is already undergone by the applicant.

5. In the case of *Union of India vs. K. A. Najeeb* [(2021) 3 SCC 713], the Supreme Court has recognized the power of Constitutional Courts to enlarge the accused undertrials on bail, when they have already undergone substantial period of maximum sentence that can be imposed upon them. The said position of law has been followed by the Supreme Court and this Court in subsequent judgments, including judgment in the case of *Javed Gulam Nabi Shaikh vs. State of Maharashtra and another* (2024 SCC OnLine SC 1693). In the said judgment, the Supreme Court has indicated that even in cases where special statutes are involved, where there is more stringent requirement to be satisfied to be enlarged on bail, the Constitutional Courts can certainly exercise their power for granting bail, where the right to speedy trial of the accused undertrial is violated. This is treated as part of the fundamental right guaranteed under Article 21 of the Constitution of India.

6. In the present case, the learned APP informed that the trial has already commenced and 18 witnesses have been examined. The chargesheet

indicates that 65 witnesses are intended to be examined, although it is indicated that the prosecution may consider examining further 10-12 witnesses. It is indicated that if direction to complete the trial within time-bound period is issued, the prayer in the present application need not be considered, as the trial itself will be completed within a reasonable period of time.

7. In that context, reliance is placed by the learned counsel for the applicant on a recent order passed by the Supreme Court in the case of *Syed Asim Ali vs. State of Uttar Pradesh* (**order dated 22.07.2024 in Criminal Appeal No.3012 of 2024**). In the said case, 16 out of 25 witnesses had been examined and yet, the Supreme Court considered it appropriate to enlarge the appellant therein on bail, taking into consideration the fact that he had already undergone incarceration for more than 4½ years, despite the fact that U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986 had been invoked against the applicant.

8. Applying the said position of law to the facts of the present case, this Court is of the opinion that purely on the ground of long incarceration suffered by the applicant i.e. 5 years and 1 month and considering the pace of the trial, there being little possibility of the trial being completed within reasonable period of time, the present application can be allowed. It is made clear that this Court has not considered and commented upon the merits of the case of the applicant.

9. 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.326 of 2018 dated 22.06.2018 registered at Anti-Extortion Cell, D.C.B., C.I.D.,

Mumbai, on furnishing PR Bond of ₹ 50,000/- 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 the office of Anti-Extortion Cell, D.C.B., C.I.D., Mumbai on first 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;
- (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.

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

11. 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.

12. The application is disposed of.

(MANISH PITALE, J)