

rajshree

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
BAIL APPLICATION NO.1814 OF 2024**

|                           |   |    |            |
|---------------------------|---|----|------------|
| Sarita Prakash Vilayatkar | ] | .. | Applicant  |
| vs.                       |   |    |            |
| State of Maharashtra      | ] | .. | Respondent |

Ms.Shubhangi Parulekar for the Applicant.

Mr.J.P. Yagnik, APP for the State.

PSI Bapusaheb Khandare, Hadapsar Police Station, Pune, present.

**CORAM : BHARATI DANGRE, J**

**DATE : 14<sup>th</sup> AUGUST, 2024.**

**P.C.**

1] At the outset it must be clarified that the Application filed by the Applicant before the Sessions Court was withdrawn vide a pursis filed on 02.08.2024.

The learned counsel for the Applicant has produced before me certified copy of the said order.

2] This is the fourth Bail Application filed by the Applicant, the first being withdrawn on 23.10.2020; the second being rejected on 25.10.2021 and the third being rejected on 10.03.2023.

On the third occasion, while rejecting the Application it was specifically recorded that the prosecution has cited 50 witnesses and the Sessions Judge who was seized of the Sessions Case was directed to expedite the trial, preferably by fixing a calendar and to conclude the same on or before 30.04.2024.

Unfortunately, despite passing of more than one year and six months, it is informed that, the trial is still at a stage where only two witnesses are examined.

3] The Applicant came to be arrested in connection with the subject 21.06.2019.

Considering that the charges levelled against her are serious in nature, despite a frantic call for her release on the ground that she is a lady having two young daughter, I did not concede to the request, with a hope that the trial shall be concluded soon.

Looking at the stage at which the trial stands today, it cannot be said certainty as to when the curtains would be drawn, as till today only two witnesses are examined by the prosecution.

4] The Hon'ble Apex Court, recently in case of ***Manish Sisodia vs. Directorate of Enforcement, in the Criminal Appeal arising out of SLP (Criminal) No.8781/2024***, speaking through Justice B.R. Gavai,

has once again focussed upon the protracted trials and reiterated that right to speedy trial and the right to liberty are sacrosanct rights and while denying these rights, the trial Court as well as the High Court ought to have given due weightage to this factor.

The observations made in para 53 and 54 deserve a reproduction:-

“53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very well-settled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts and the High Courts should recognize the principle that “bail is rule and jail is exception”.

54. In the present case, in the ED matter as well as the CBI matter, 493 witnesses have been named. The case involves thousands of pages of documents and over a lakh pages of digitized documents. It is thus clear that there is not even the remotest possibility of the trial being concluded in the near future. In our view, keeping the appellant behind the bars for an unlimited period of time in the hope of speedy completion of trial would deprive his fundamental right to liberty under Article 21 of the Constitution. As observed time and again, the prolonged incarceration before being pronounced guilty of an offence should not be permitted to become punishment without trial.”

The above observations definitely provide a guidance to use, while deciding the applications for grant of bail in cases where the trial could not be concluded in a timely manner.

5] The observations made above are prima facie in nature and limited for the purpose of determination of the present Application and the learned Judge trying the Applicant for the offences, with which she is charged, shall not in any manner be influenced by the same.

For the reasons recorded above, the following order is passed :

**ORDER**

- (a) Bail Application is allowed.
- (b) The Applicant Sarita Prakash Vilayatkar is directed to be enlarged on bail in connection with C.R.No.580/2019 registered with Hadapsar Police Station, on furnishing P.R. bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall report to the concerned Police Station once on first Monday of every trimester between 10.00 a.m. to 12.00 noon.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him/her from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (e) Upon release, the Applicant shall furnish her contact number and permanent residential address to the Investigating Officer and shall keep him updated in case of any change.
- (f) The Applicant shall attend the trial on each and every date, unless exempted.

**[BHARATI DANGRE, J]**