

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
BAIL APPLICATION NO. 2015 OF 2024**

|                               |     |            |
|-------------------------------|-----|------------|
| Vishwas Ganpat Bovane @ Pappu | ... | Applicant  |
| vs.                           |     |            |
| The State of Maharashtra      | ... | Respondent |

**WITH  
INTERIM APPLICATION NO. 2148 OF 2024  
IN  
BAIL APPLICATION NO. 2015 OF 2024**

Mr. Mohd. Shayan Usmani a/w. Ms. Sakshi Baadkar, Mr. Ahmad Daniyal Siddiqui and Mr. Mohan Rao, i/b. Abhishek Kumar for applicant.

Mr. Kiran C. Shinde, APP for respondent-State.

None for applicant in IA/2148/24.

Mr. Pradip Ahire, P.S.I., M.I.D.C. Police Station, Mumbai.

**CORAM : MANISH PITALE, J.  
DATE : 13<sup>th</sup> SEPTEMBER, 2024**

**P.C. :**

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

2. The applicant has approached this Court seeking bail in connection with FIR No.466 of 2019 dated 09.10.2019 registered at M.I.D.C. Police Station, Mumbai for offences under sections 302, 307 and 326 of the Indian Penal Code, 1860 and sections 37(1) and 135 of the Maharashtra Police Act. The applicant was arrested on 09.10.2019. The investigation was completed

and the chargesheet was filed on 06.01.2020. Charge was framed on 22.04.2022 and till date, not a single witness has been examined.

3. The allegation against the applicant is that he caused the death of the victim by inflicting stab injury. The victim was admitted in hospital and he died after about 13 days of the incident. The post-mortem report records the cause of death as death due to septicaemic shock following stab injury (unnatural).

4. It is pertinent to note that the applicant had moved this Court earlier by filing Bail Application No.2836 of 2023. The said application was allowed to be withdrawn by order dated 16.10.2023 passed by this Court (Coram: M. S. Karnik, J). In the said order itself, it was noted that the applicant had already undergone incarceration for more than 4 years. Request was made to expedite the trial and liberty was reserved to apply for bail after 6 months or after chemical analysis report was filed, whichever was earlier. This Court is informed that the chemical analysis report has been filed and in any case, the period of 6 months from the order dated 16.10.2023 is already over.

5. The learned counsel for the applicant submitted that although he would be able to demonstrate the discrepancies in the version of the eye-witnesses, but since the aforesaid contention was raised on the earlier occasion, when this Court disposed of the bail application on 16.10.2023, he is pressing for relief in the present application purely on the ground of long period of incarceration suffered by the applicant and trial proceedings not moving at all, even after the aforesaid order dated 16.10.2023 was passed by this Court in the earlier Bail Application No.2836 of 2023.

6. The learned counsel placed reliance on the judgments of the Supreme Court in the case of *Javed Gulam Nabi Shaikh vs. State of Maharashtra and another* (2024 SCC OnLine SC 1693) and in the case of *Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari vs. State of Uttar Pradesh* [(2024) SCC OnLine SC 1755] and orders passed by this Court in line with the position of law clarified by the Supreme Court in the aforesaid judgments.

7. The learned APP submitted that the trial could be completed in a time frame that would be indicated by this Court and since there is sufficient material on merits against the applicant, he may not be enlarged on bail. It is submitted that an endeavour could be made by the prosecution to expedite the trial.

8. This Court has taken note of certain admitted facts, which include the fact that the applicant has suffered incarceration as an undertrial for about 5 years, the charge in the present case was framed as far back as on 22.04.2022 and yet, not a single witness is examined and particularly, the fact that after the order dated 16.10.2023 was passed by this Court in earlier Bail Application No.2836 of 2023, whereby the trial Court was requested to expedite the trial, in effect, there has been no progress before the trial Court. It is to be noted that in the aforesaid order dated 16.10.2023, this Court had reserved liberty for the applicant to approach this Court afresh after a period of 6 months.

9. The Supreme Court, in recent pronouncements, has emphasized upon the power of the Constitutional Courts to grant relief of bail on the accepted principle that bail is a rule and jail is an exception. The aforesaid judgements of the Supreme Court in the cases of **Javed Gulam Nabi Shaikh vs. State of**

**Maharashtra and another** (*supra*) and **Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari vs. State of Uttar Pradesh** (*supra*), upon which the learned counsel for the applicant has placed reliance, have reiterated the said position. In fact, in the said judgments, it is clarified that merely because an undertrial is facing prosecution for serious offences, it cannot be a ground for the Constitutional Courts not to exercise power to enlarge the accused undertrial on bail, who has suffered long period of incarceration and there is remote possibility of the trial being completed within a reasonable period of time. It is also clarified that in cases which arise out of special statutes, where grant of bail has been made more stringent, the Constitutional Courts can still exercise their power in such cases.

10. In the present case, the facts demonstrate that the applicant is clearly covered under the said position of law. He has already undergone 5 years of incarceration. The chargesheet shows 31 witnesses to be examined by the prosecution. Not a single witness has been examined and there has been factually no progress in the trial, despite the request made by this Court in order dated 16.10.2023 to expedite the trial. The applicant has no criminal antecedents and therefore, purely on the aforesaid ground, without any comments on the merits of the matter, this Court is inclined to allow the present application.

11. 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.466 of 2019 dated 09.10.2019 registered at M.I.D.C. Police Station, 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 M.I.D.C. Police Station 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.

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

13. 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.

14. The application is disposed of.

15. In view of disposal of bail application, the interim application also stands disposed of.

**(MANISH PITALE, J)**