

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

BAIL APPLICATION NO. 2508 OF 2024

Rajkumar Faujdar Pal

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Prabhakar Pandey, for Applicant.
- Mr. Kiran C. Shinde, APP for respondent No.1. - State.
- Mr. Rupchand Shete, API, Shantinagar Police Station, Bhiwandi.

CORAM : MANISH PITALE, J.

DATE : 27th NOVEMBER, 2024.

P. C. :

1. Heard, Mr. Pandey, learned counsel for the applicant and Mr. Shinde, learned APP for the respondent-State.

2. The applicant is seeking bail, as he was arrested on 09th August, 2017 in connection with C.R. No.232 of 2017, dated 08th August, 2017, registered at Police Station Shantinagar, District Thane, for offence under Section 302 of the Indian Penal Code, 1860 (IPC).

3. In the present case, the allegation against the applicant is that he brutally assaulted his wife, resulting her in death. The material on record shows that initially the applicant himself had reported the death of his wife by claiming that she had bouts of vomiting and when she was admitted to the hospital, she eventually died. But, investigation into the matter revealed that

SHRIKANT
SHRINIVAS
MALANI

Digitally signed by
SHRIKANT
SHRINIVAS MALANI
Date: 2024.11.27
19:32:40 +0530

there were physical injuries on the body of the deceased and the investigation, led the Investigating authority to conclude that the applicant was responsible for the death of his wife. An earlier application moved on behalf of the applicant was disposed of as withdrawn in the year 2018.

4. The learned counsel for the applicant is pressing for relief in the present application on the ground of long incarceration and there being practically no progress in the proceeding before the Trial Court. It is submitted that the applicant has suffered incarceration for more than 7 years and in the light of the manner in which the proceedings have taken place before the concerned Trial Court, there is no possibility of the trial being completed within a reasonable period of time. He places reliance on the position of law indicated by the Supreme Court in this regard.

5. The learned APP, on the other hand, submitted that the prosecution intends to examine only 18 witnesses and therefore, this Court may consider expediting the trial instead of granting relief to the applicant. It is submitted that there is sufficient material to show the direct involvement of the applicant in the brutal murder of his own wife. It is further submitted that the applicant is originally resident of Uttar Pradesh and therefore, there is possibility of the applicant not cooperating with the Trial Court.

6. This Court by order dated 12th November, 2024, had called for

report from the concerned Trial Court i.e. the District Judge-II and Additional Sessions Judge, Bhiwandi, as to the present status of the trial. The report of the aforesaid Court reads as follows :

“With reference to the subject noted above, it is respectfully submitted that the aforesaid case is posted for Hearing. On 5/11/2024, the accused was not produced by the Jail Authority and his Advocate also remained absent and witnesses also not present. Therefore, again Bailable Warrant (B/W) was issued to witness nos. 1 and 2 and issued witness summons to the remaining witnesses. The case posted for hearing on 28/11/2024.

Respectfully submitted.”

7. The above quoted content of the report clearly indicates that despite the charges being framed in the present case as far back as on 06th July, 2019, not a single witness has been examined by the prosecution till date. The above quoted report indicates that bailable warrants have been issued to witness Nos.1 and 2 and that the case is now posted for tomorrow (28th November, 2024).

8. Considering the manner in which the matter has progressed before the aforesaid Court, as also in the light of the period of incarceration

already undergone by the applicant i.e. more than 7 years and 3 months, this Court finds that the position of law indicated by the Supreme Court in such cases inures to the benefit of the applicant.

9. Although it is stated that the prosecution intends to examine only 18 witnesses, considering pressure of work on the concerned Trial Court and the history of progress of the trial in this particular case, there does not appear to be any possibility of the trial being completed within a reasonable period of time. It is also an admitted position that the applicant has indeed suffered long incarceration, as he was arrested on 09th August, 2017 and he has continued to remain behind bars.

10. In the case of Union of *India Vs. K.A. Najeeb*¹, *Satender Kumar Antil Vs. Central Bureau of Investigation*² and in a recent judgment in the case of *Javed Gulam Nabi Shaikh Vs. The State of Maharashtra*³, the Supreme Court has reiterated the position of law of right to speedy trial of the accused under-trial as a facet of right to life under Article 21 of the Constitution of India and where such situation exists indicating that the accused under-trial has suffered long incarceration with remote possibility of the trial being completed within a reasonable period of time, the Constitutional Courts must exercise their power to enlarge such accused under-trials on bail, subject to

1 (2021) 3 SCC 713

2 (2022) 10 SCC 51

3 2024 SCC OnLine SC 1693

appropriate conditions being imposed.

11. This Court is inclined to exercise such power in favour of the applicant. The apprehension about the applicant being originally resident of Uttar Pradesh and that he may not cooperate with the Trial Court can be addressed by imposing appropriate conditions.

12. In view of the above, the application is allowed in the following terms:

- (A) The applicant shall be released on bail in connection with C.R. No.232 of 2017, dated 08th August, 2017, registered at Police Station Shantinagar, District Thane, on furnishing PR bond of ₹ 50,000/- with one or two sureties in the like amount, to the satisfaction of the Trial Court.
- (B) The applicant shall upon being released, report to Shantinagar police station, on every first and third Monday of the month between 10.00 a.m. to 12.00 noon, during the pendency of the trial.
- (C) The applicant shall cooperate with the proceedings in the Trial Court and he shall remain present before the Trial Court on each and every date, except when specifically exempted by the Trial Court.

- (D) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.
- (E) The applicant shall upon release immediately inform the Investigating Officer and the Trial Court of his Contact numbers and residential address and update the same in case of any change.
13. 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.
14. It is made clear that the observations made in this order are limited to the question of grant of bail to the applicant and that the Trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.
15. It is further made clear that this Court has not made any observations on the merits of the case.
16. The application is disposed of.

(MANISH PITALE, J.)