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

BAIL APPLICATION NO.3503 OF 2024

Ahmad Hasan alias Ravi

... Applicant

Versus

The State of Maharashtra

... Respondent

Ms. Deepa Punjani a/w Mr. Neeraj Yadav, Advocate, for the Applicant.
Mrs. R.V. Newton, APP, for the Respondent – State.
PSI, Ms. Tejaswi Pawar, Warje Malwadi Police Station, Pune City,
present.

**CORAM: MADHAV J. JAMDAR, J.
DATE: 4th September 2024**

P. C.

1. Heard Ms. Deepa Punjani, learned Counsel for the Applicant and Mrs. Newton, learned APP for the Respondent-State.
2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C. R. No.	214 of 2018
2.	Date of registration of F.I.R.	06.07.2018
3.	Name of Police Station	Warje Malwadi, Pune
4.	Sections invoked	394, 397 r/w. 34 of I.P.C., 1860.
5.	Date of incident	24.06.2018
6.	Date of arrest	03.07.2019
7.	Date of filing of Charge-sheet	08.07.2019

3. Ms. Deepa Punjani, learned Counsel for the Applicant submitted that in this particular case, the Applicant's fundamental

right of speedy trial has been violated. She submitted that the Applicant is incarcerated since 3rd July 2019 and there is no progress in the trial till date and even the Charge is also not framed yet. She submitted that in fact the Applicant is arrested on 13th November 2018 in another case and thereafter he has taken in custody in this case on 3rd July 2019. She further submitted that Sections 394 and 397 of the *Indian Penal Code, 1860* could not have been invoked or applied since neither was anyone physically hurt nor was any deadly weapon used in the commission of the alleged offence. She submitted that the Applicant has already undergone incarceration of about 5 years and 2 months in this case. She also pointed out that there are about six antecedents against the Applicant, however, insofar as all these cases are concerned, the Applicant has been granted bail. She therefore submitted that the Bail Application be granted.

4. On the other hand, Mrs. Newton, learned APP for the Respondent-State vehemently opposed the Bail Application. She pointed out the F.I.R. dated 24th June 2018 at page-22 as well as test identification parade at page-85. She also pointed out statement of the Applicant recorded under Section 27 of the Indian Evidence Act at page-56. She submitted that the very strong incriminating circumstances are against the Applicant. She therefore submitted that the Bail Application be rejected.

5. The learned Additional Sessions Judge, Pune by Order dated 20th November 2023 rejected the Bail Application of the present

Applicant- Ahmad Hasan @ Ravi as well as another co-Accused, Gulfam Zahir Hasan. The said co-Accused, has been released on bail by this Court by Order dated 3rd April 2024 passed in Bail Application No.421 of 2024 on the ground of long incarceration of 5 years and 6 months.

6. The prosecution case is set out in paragraphs 3 and 4 of the Order dated 20th November 2023 passed by learned Additional Sessions Judge, Pune. The said paragraphs read as under :

“3. Prosecution case in short is that informant Sudhir Jalnapure, a resident of Kolhapur, was going to Mumbai on 24.06.2018 at about 6.45 p.m. he was waiting at Chandani Chowk, Pune for a vehicle to go to Mumbai. At that time, a white colour car stopped near him, four persons including its driver, were travelling therein. They made inquiry with him. The informant told that he want to go to Mumbai, and they took him in the car. Thereafter, on the way, one of the person kept pistol on his head and tied clothe on his eyes. They have forcibly taken away his Credit Card and obtained its password from him. They have forcibly taken away his mobile and gold ring from his finger. They assaulted him. Then they took out the clothe from his eyes, returned his mobile and left him near Mankhurd railway station on the highway at about 11.50 a.m. Then by auto rikshaw, he visited Mankhurd Police Station and police therefrom took him to Trombay police station, where he lodged report giving description of those four people who committed crime against him in the car. On verification of his e-mail account, he came to know that transactions

of Rs.3,68,960/- were effected at Kalamboli, Koparkhairane, Vashi etc. by using his Credit Card. The crime is committed within jurisdiction of Warje Malwadi Police Station. Therefore, his report is forwarded to said police station, crime is registered and further investigation is started.

4. The accused were arrested in Crime No.115/2018 registered at Kalamboli Police Station, Navi Mumbai for the offence under section 392 r/w Sec. 34 of the Indian Penal Code and under sections 3(1)(ii), 3(2), 3(4) of MCOC Act. Then custody of accused were transferred in this crime and some recovery is effected. On completion of investigation, Charge-sheet is submitted.”

7. In the said Order, it is recorded that both these Accused were arrested in other crime on 13th November 2018 and they were transferred in the present crime on 3rd July 2019, on which date they were arrested in the present crime and since then they are in jail. The said Order records that although the Applicant has been granted bail in another crime, which is registered under the provisions of the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act), still they could not avail bail in the said crime.

8. The record shows that the F.I.R. was registered on 6th July 2018, the Applicant was apprehended on 13th November 2018 in another crime and in this crime he was taken into custody on 3rd July 2019. The Charge-sheet was filed on 8th July 2019. Even if the said

date i.e. 3rd July 2019 is taken into consideration, then also, the Applicant is behind bars for 5 years and 2 months.

9. It is admitted position that the trial is not commenced and even the Charge is also not framed. As per the Charge-sheet, the prosecution intends to examine 22 witnesses. Thus, the trial will take considerable time to conclude.

10. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just” procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.¹ Therefore, the Applicant is entitled for bail. Although there are antecedents, the Applicant has been released on bail in those cases.

11. The Applicant does not appear to be at risk of flight.

13. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

14. In view thereof, the following order:-

ORDER

(a) The Applicant - Ahmad Hasan @ Ravi be released on bail in connection with C.R. No.214 of 2018 registered with the Warje Malwadi Police Station, District-Pune on his furnishing P.R. Bond of Rs.10,000/- with one or two solvent

¹ Hussainara Khatoun (IV) v. Home Secy., State of Bihar, (1980) 1 SCC 98

sureties in the like amount.

(b) The Applicant is granted leave to furnish cash bail in lieu of sureties for a period of 12 weeks.

(c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(d) The Applicant shall report to the Warje Malwadi Police Station, District-Pune on every Sunday between 02.00 p.m. and 04.00 p.m. until the conclusion of the trial.

(e) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case, so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

(f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

(g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.

(h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

13. The Bail Application is disposed of accordingly.
14. It is clarified that the observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this order.

(MADHAV J. JAMDAR, J.)