

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

CRIMINAL BAIL APPLICATION NO.3912 OF 2024

Subhash Mohanlal Bishnoi Applicant

versus

The State of Maharashtra Respondent

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- Mr. Pratik Jadhav i/b. Nitesh J. Mohite, Advocate for Applicant.
- Mr. Sukanta A. Karmarkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 09th DECEMBER, 2024

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.373/2019, dated 06/03/2019, registered with Wakad Police Station, Pimpri-Chinchwad City, under sections 395, 397, 504, 427 of the Indian Penal Code and under section 25 (3) of the Arms Act r/w section 37(1)(3) and 135 of the Maharashtra Police Act.

2. Heard Mr. Pratik Jadhav, learned counsel for the Applicant and Mr. Sukanta A. Karmarkar, learned APP for the State.

3. The Applicant was arrested on 07/04/2019 and since then he is in custody. Earlier he had approached this Court vide Criminal Bail Application No.3211 of 2023, which was rejected by this Court, vide the order dated 22/03/2024. The operative part of the said order mentions that the Trial Court was directed to complete the trial within four months from 22/03/2024 and if necessary, the trial was to be conducted on day to day basis. The Court had specifically directed the learned Trial Judge to give precedence to this case. The Applicant was given specific liberty to make a fresh application for bail if the trial was not concluded within that period. The trial was not concluded within four months from 22/03/2024. In fact, recording of the evidence has also not commenced. Therefore, I am entertaining this application pursuant to the liberty granted to the Applicant.

4. On the last occasion, the matter was listed on 27/11/2024 and it was adjourned to today's date. Today, the learned APP submitted the status report of the case in which it was mentioned that the matter was called out on 02/12/2024,

but the learned Judge did not start recording of evidence. In this situation, this Court will have to consider the fact of long incarceration in custody. As far as the merit of the matter is concerned, the facts of the case and the material collected during the investigation were discussed in detail in the order dated 22/03/2024.

5. The incident was dated 06/03/2019, which had taken place at about 10.30 a.m. in a jewellery shop at Pune by name Puneekar Jewellers. The first informant and one Monali were present in the shop. Four persons entered their shop. One of them closed the shutter of the shop from inside. The other three showed pistol to the informant and threatened him. When he tried to escape, one of those persons fired two rounds towards the informant causing serious injuries including fracture of his thigh. They removed ornaments from the shop. They removed DVR containing CCTV footage. They broke the mobile phone of Monali and then went away. The neighbours were called by Monali by rescuing herself and then this FIR was lodged. The investigation was carried out and the charge-sheet was filed. The

investigation revealed that the offenders had taken away gold ornaments worth more than Rs.90,15,000/-. The Applicant, as mentioned earlier, was arrested on 07/04/2019.

6. At the first instance, the Applicant had preferred one Criminal Bail Application before this Court, which was rejected by the co-ordinate bench on 05/03/2021. After that Criminal Bail Application No.3211 of 2023 was preferred as referred to hereinabove.

7. As far as the material against the Applicant is concerned, the circumstances are as follows :

- (1) At the time of his arrest, two country-made pistols were recovered from the Applicant. One of the empties of bullets recovered from the spot matched with the recovered weapon.
- (2) Gold ornaments weighing 705 grams were recovered at his instance in front of his house at Haryana. They were buried in the ground.

- (3) Two motorcycles were recovered at his instance on 11/04/2019. They were used in the commission of the offence.

8. Some incriminating articles like hammer and cutter were recovered from the flat where he was staying at Amrutnagari Co-operative Housing Society, Wagholi, Pune. He was identified by the first informant Divyank and eyewitness Monali in the Test Identification Parade on 18/07/2019. The informant had suffered injuries on the leg. Thus, there is sufficiently strong material against the Applicant.

9. In spite of this strong material, the fact remains that the trial has not even progressed to the stage of recording of the evidence. As mentioned earlier, the previous order mentions if the trial did not start within four months from 22/03/2024, then the Applicant was given liberty to make a fresh application. Accordingly, this application is made. The Applicant is in custody since 07/04/2019. More than 5 ½ years have passed. There is no justification for not starting recording of evidence, in spite of the order passed by this Court on the previous occasion.

Therefore, on this ground alone, the Applicant will have to be released on bail.

10. Learned APP submitted that there is one more antecedent against the Applicant under the Arms Act.
11. Considering the nature of the present offence and his antecedent, necessary conditions will have to be imposed on him.
12. Hence, the following order :

ORDER

- (i) In connection with C.R.No.373/2019, dated 06/03/2019, registered with Wakad Police Station, Pimpri-Chinchwad City, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall not leave Pune City without prior permission of the Trial Court.

- (iii) The Applicant shall attend all the dates before the Trial Court diligently.
- (iv) He shall not tamper with the evidence and shall not threaten any witnesses.
- (v) The Applicant shall report to Wakad Police Station, on every Saturday between 04.00 p.m. to 06.00 p.m. till the conclusion of the trial.
- (vi) The Applicant shall deposit his passport, if any, with the Investigating Officer before being released on bail.
- (vii) With these observations, the application is disposed of.

(SARANG V. KOTWAL, J.)