

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3968 OF 2024**

Suhas @ Pillya Balaji Gaikwad

...Applicant

Versus

The State of Maharashtra

...Respondent

BHALCHANDRA
GOPAL DUSANE

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Mr. Satyavrat P. Joshi a/w Mr. Yash G. Fadtare, Ms. Reena Prajapati,
Advocate, for the Applicant.

Ms. P.P. Bhosale, APP, for the Respondent – State.

P.S.I. Sagar S. Devkar, Chikhali Police Station, Pimpri-Chinchwad
present.

**CORAM: MADHAV J. JAMDAR, J.
DATED: 14th December 2024**

P.C.:

1. Heard Mr. Joshi, learned Counsel for the Applicant and
Ms. Bhosale, 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.	234 of 2020
2	Date of registration of F.I.R.	30/05/2020
3	Name of Police Station	Chikhali, District – Pune
4	Section/s invoked	302, 141, 143, 147, 148 & 149 of the <i>I.P.C., 1860</i> ; 37(1) of the <i>Maharashtra Police Act,</i> <i>1951</i> ; 4 & 25 of the <i>Arms Act, 1959</i> .
5	Date of incident	29/05/2020
6	Date of arrest	01/06/2020
7	Date of filing Charge-sheet	26/08/2020

3. The Respondent—State of Maharashtra has opposed this Bail Application by filing an Affidavit-in-Reply of Siddharth B. Babar, Assistant Police Inspector, presently attached to Chikhali Police Station, Pimpri Chinchwad, Pune, District—Pune dated 24th October 2024. The prosecution case is set out in Paragraph No.3 of said Affidavit-in-Reply. Said Paragraph No.3 reads as under:

“3(a) That Orig. Complainant/Informant namely Prakash Mahadu Randive is an auto rickshaw driver. The informant’s son Aniket Randive always used to be together with Aakya Band and his friend. Before some days, Aakya Band and friends injured one Amit Chavan, resident of Gharkul Chikhali with an axe. Bearing that vengeance in mind, Amit Chavan along with his brother Ajay Chavan and friends were roaming in Gharkul premises with axe in hand to beat Aakya Band and his companions. The fact of Chavan brothers roaming was informed to the informant by his son Aniket Randive.

(b) It is further case of prosecution that, due to the terror of the said Chavan brothers and associates, the informant was not letting his son leave the house and paying attention to him.

(c) It is further case of prosecution that on 29.06.2020, at 6.00 p.m. Aniket Randive left the house without informing anyone. For searching him, the informant was roaming in Gharkul premises, around 7.30 p.m. he arrived at Gharkul circle Madhur Milan CHS. Informant’s son Aniket Randive was standing there and at that time, from backside, when Aniket was standing, Ajay Chavan injured him on head with axe in his hand, Pilya Gaikwad hurted Aniket on his head, Ashitosh Kadam injured with Iron Axe in his hand and other 3-4 companies arrived there.

(d) It is further case of prosecution that the informant created hue and cry for saving his son. Thereafter, the

informant's son Suraj arrived there and told Pilya Gaikwad and Ajay Chavan for not injuring his brother. As the crowd increased, the people fled away from the spot of incident. Informant's son Aniket became unconscious and since blood was flowing from his head, he was admitted to D. Y. Patil Hospital, Pimpri, Pune. During his treatment, the medical practitioner declared the said Aniket as dead. Since, the informant's son was a close friend of Aakya and Amit Chavan, Ajay Chavan, Pilya Gaikwad, Ashitosh Kadam along with their 3-4 companies killed the informant's son injuring him with axe.

(e) On the basis of the complaint lodged by the Orig. Complainant, offence vide CR No.234/2020, u/secs. 302, 141, 143, 147, 148, 149 of the Indian Penal Code, Section 37 (1) r/w. 135 of the Maharashtra Police Act and Sections 4 r/w 25 of Arms Act was registered with Chikhali Police Station, Dist. : Pune on 30.05.2020 against (1) Ajay Chavan, (2) Pilya Gaikwad and (3) Ashitosh Kadam and investigation was commenced."

4. At the outset, Mr. Joshi, learned Counsel for the Applicant states that the Applicant is not seeking bail on merits. He states that only on the ground of a long incarceration and that the fundamental right of speedy trial of the Applicant has been violated, the Applicant is seeking bail. He submits that the incident in question took place on 29th May 2020, F.I.R. was lodged on 30th May 2020 and the Applicant was arrested on 1st June 2020. He states that till date there is no further progress in the trial except framing of the Charge on 21st August 2024. He submits that as per the Charge-sheet there are about 36 witnesses proposed to be examined by the prosecution and therefore a considerable time will be required for completion of the trial.

5. On the other hand, Ms. Bhosale, learned APP strongly opposed the Bail Application. She submitted that there are about 5 eye-witnesses to the incident in question. She submitted that the Applicant had played a significant role in the incident in question and that the Applicant had assaulted the deceased with a koyta. She submitted that there is recovery of two koytas.

6. She points out paragraph No.14 of the Affidavit-in-Reply and submits that there are three antecedents. The said paragraph No.14 reads as under :

14. I say that the present Applicant/Accused is involved in following offences :

Sr. No.	CR No. & Police Station	U/Secs.	Current Status
1	492 / 2019 Chikhali Police Station, Dist. Pune	326, 143, 148, 149 IPC, U/Sec. 37(1) r/w 135 of Maharashtra Police Act.	Court pending
2	117/2020 Chikhali Police Station, Dist. Pune	452, 504, 506(2), 34 IPC	Court pending
3	121/2020 Chikhali Police Station, Dist. Pune	394, 504, 506, 34 IPC	Court pending
4	234/2020 Chikhali Police Station, Dist. Pune (Present offence)	302, 141, 143, 147, 148, 149 IPC, Sec. 37(1) r/w 135 of Maharashtra Police Act and Sections 4 r/w 25 of Arms Act.	Court pending

She therefore submits that the Bail Application be rejected.

7. Mr. Joshi, learned Counsel appearing for the Applicant submits that all these antecedents are of the years 2019 and 2020 and the

Applicant has been either released on bail or released on anticipatory bail in these offences.

8. Perusal of the record shows that the incident in question took place on 29th May 2020, F.I.R. was lodged on 30th May 2020 and the Applicant was arrested on 1st June 2020. The Charge-sheet was filed on 26th August 2020. Till date, there is no progress in the trial except framing of Charge on 21st August 2024. As per the Charge-sheet, there are about 36 witnesses proposed to be examined by the prosecution. Accordingly, the trial will take a considerably long time to conclude.

9. The present Application is the second Bail Application filed by the Applicant. The Applicant has already filed Bail Application No. 1663 of 2023 and by Order dated 31st January 2024, the said Bail Application has been directed to be withdrawn with liberty to file fresh Bail Application after a period of 10 months. As already noted hereinabove, there is no progress in the trial and therefore, Applicant's right of speedy trial is violated.

10. The Applicant is incarcerated for about 4 years and 6 months. 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

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

Applicant is entitled for bail.

11. Although there are 3 antecedents against the Applicant, the same are of the years 2019 and 2020. The Applicant has already been granted bail in those cases.

12. Mr. Joshi, learned Counsel for the Applicant, on instructions, states that as most of the witnesses are from District – Pune, the Applicant will therefore not reside within District – Pune and that the Applicant will reside at : C/o Panditrao Tulshiram Dhaygude, At Post, Taluka Umarga, District Dharashiv, Next to Maruti Temple, Umarga.

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

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

15. In view thereof, the following order:-

ORDER

- (a) The Applicant – Suhas @ Pillya Balaji Gaikwad be released on bail in connection with C.R. No.234 of 2020 registered with the Chikhali Police Station, District – Pune on his furnishing PR. Bond of Rs.1,00,000/- with one or two local solvent sureties in the like amount.
- (b) The Applicant shall not enter the Pune district after being released on bail, except for reporting to the Investigating Officer, if called, and for attending the trial.
- (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 Umarga Police Station, District – Dharashiv once every week i.e. on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Umarga Police Station, District – Dharashiv to communicate details thereof to the Investigating Officer.
- (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.

16. The Bail Application is disposed of accordingly.

17. It is clarified that the Trial Court shall decide the case on its merits, uninfluenced by the *prima facie* observations made in this Order.

(MADHAV J. JAMDAR, J.)