

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

BAIL APPLICATION NO. 4848 OF 2024

Mangesh Balaram Bhagat

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Vinod Kashid a/w Mr. Sumit Bhoite and Mr. Abdul Shaikh, for Applicant.
- Mr. Prasanna P. Malshe, APP for Respondent.
- Mr. Achyut V. Mupade, API, Dombivali Police Station, present.

CORAM : MANISH PITALE, J.

DATE : 11th DECEMBER, 2024.

P. C. :

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

2. The applicant was arrested on 01st June, 2017 in connection with First Information Report No.I-138 of 2017, dated 30th May, 2017 registered at Police Station Dombivali, District Thane, for offences under Sections 302, 143, 147, 148, 149, 323, 504 and 506 of the Indian Penal Code, 1860 (IPC) and Sections 3, 25 and 27 of the Arms Act.

3. The applicant is one of the 13 accused persons in the present case. All the others 12 accused persons have been released on bail and he is the only accused person still behind bars. As per the prosecution case, the applicant is the main accused person in the facts and circumstances of the present case.

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4. The learned counsel for the applicant submits that the present bail application is being pressed only on the ground of the period of incarceration already undergone by the applicant and there being hardly any possibility of the trial being completed within a reasonable period of time.

5. The learned APP submits that the charges were framed in the present case on 30th April, 2024 and it is a fact that not a single witness has been examined till date. The charge-sheet shows a list of 51 witnesses to be examined by the prosecution.

6. The Supreme Court has time and again reiterated the necessity to ensure that trial proceedings are completed at the earliest possible, so as to ensure that the right to speedy trial of accused under-trials as a facet of right to life under Article 21 of the Constitution of India is duly honoured. In a series of judgments, the Supreme Court has indicated that in situations where the accused under-trials have undergone periods of long incarceration and there is remote possibility of the trial being completed within a reasonable period of time, the Constitutional Courts must exercise their powers to enlarge such accused under-trials on bail. In the case of *Javed Gulam Nabi Shaikh Vs. The State of Maharashtra and another*¹, the Supreme Court reiterated the said position of law by relying upon earlier judgments in the cases of *Hussainara*

1 2024 SCC OnLine SC 1693

*Khatoon Vs. Home Secretary, State of Bihar*², *Kadra Pahadiya & Ors Vs. State of Bihar*³ and *Union of India Vs. K.A. Najeeb*⁴ and *Satender Kumar Antil Vs. Central Bureau of Investigation*.⁵ It was emphasized that seriousness of the offences registered against the accused under-trials cannot be a ground to deny bail when such an accused under-trial has indeed suffered long incarceration. It was emphasized that even in cases involving offences under Special Statutes where the accused under-trials are required to satisfy higher threshold for being enlarged on bail, the Constitutional Courts must exercise their power to grant bail when such accused under-trials have suffered long period of incarceration and the trial is not likely to be completed within a reasonable period of time.

7. In fact, the Supreme Court in the case of co-accused person granted bail while disposing of Special Leave to Appeal (Criminal) No.11839 of 2024 by order dated 05th November, 2024, taking note of the number of witnesses proposed to be examined by the prosecution.

8. This Court is convinced that in the facts and circumstances of the present case, when the charge has been recently framed on 30th April, 2024, not a single witness has been examined and the prosecution intends to examine 51 witnesses, the present bail application deserves to be allowed only

2 (1980)1 SCC 81

3 (1981) 3 SCC 671

4 (2021) 3 SCC 713

5 (2022) 10 SCC 51

on the said ground. It is to be noted that the applicant does not have any criminal antecedents.

9. 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.I-138 of 2017, dated 30th May, 2017 registered at Police Station Dombivali, District Thane, on furnishing P.R. Bond of ₹ 50,000/- with one or two sureties in the like amount, to the satisfaction of the Trial Court
- (B) The applicant, upon being released on bail, shall report to the Police Station Dombivali, Thane, on the first Monday of every month between 10:00 a.m and 12:00 noon., during the pendency of the trial.
- (C) The applicant shall surrender his passport, if any, to the Investigating Officer,
- (D) The applicant shall cooperate with the Trial Court for expeditious disposal of the trial. He shall attend the proceedings before the Trial Court on each and every date, except when exempted for reasons to be recorded in writing.
- (E) The applicant shall furnish the details of his active mobile

numbers and his local address to the Investigating Officer and the Trial Court within two weeks of being released on bail.

- (F) The applicant shall not influence the informant, witnesses or any other persons concerned with the present case, during the pendency of the trial.

10. In the event the applicant granted bail, violates any of the conditions recorded hereinabove, the bail granted to him would be liable to be cancelled.

11. It is made clear that the observations made hereinabove in the present order are limited to disposing of the present bail application. The Trial Court shall proceed on merits in the present case without being influenced by the observations made hereinabove.

12. The application is disposed of.

(MANISH PITALE, J.)