

(This order is corrected as per speaking to minutes order dated 8th January 2025)

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

BAIL APPLICATION NO. 5037 OF 2024

Amarjeet Satiram Rajbhar ... Applicant
Versus
The State of Maharashtra ... Respondent

Mr. Omneel A. Jadhav (through V.C.) for the Applicant.
Mr. Sagar R. Agarkar, APP for Respondent-State.
Mr. A. N. Ghaste, API, Khadakpada Police Station, Dist. Thane.

**CORAM: MANISH PITALE, J.
DATE : 14th DECEMBER 2024**

P.C. :

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

2. The applicant has moved this second bail application, as his first bail application was dismissed on merits by order dated 8th November 2019 passed in Criminal Bail Application No. 1019 of 2019.

3. In the present case, the applicant was arrested on 12th April 2018 in connection with FIR No. I-125 of 2018 dated 11th April 2018 registered at Khadakpada Police Station, Dist. Thane, for offence under Section 302 of the Indian Penal Code, 1860 (IPC).

4. The allegation against the applicant is that he assaulted the victim by means of a stick, causing severe injuries on the face and

head of the victim, who eventually died due to the injuries. The wife of the victim was an eye-witness and the prosecution claims that the incident occurred, as the applicant entered the house of the victims with the intention of committing robbery. It is claimed that an amount of Rs.1,600/- was recovered from the applicant.

5. The learned counsel for the applicant submits that in the present case, the applicant has suffered incarceration for a period of more than 6 years and 8 months. The charge was framed in the year 2022 and not a single witness has been examined. It is submitted that since the first application of the applicant was dismissed on merits, no submissions are being advanced on merits of the matter. But, considering the long period of incarceration and no progress in the trial, this Court may consider enlarging the applicant on bail, who undertakes to abide by conditions that may be imposed by this Court.

6. The learned APP, on the other hand, submits that in the present case, a 19 year old person was brutally killed and there is sufficient material to indicate the involvement of the applicant. It is submitted that, as a matter of fact, not a single witness has been examined by the prosecution. It is brought to the notice of this Court that since the applicant is originally a resident of Bihar, there is every possibility of the trial being completely derailed, if the applicant is granted bail, as he may not be available for trial.

7. The Supreme Court in various judgments has highlighted the

aspect of right to speedy trial of accused under-trial being a facet of right to life under Section 21 of the Constitution of India. It has been emphasized that seriousness of the offences registered against the accused under-trial, cannot be a ground to deny bail, despite the fact that such an accused under-trial has suffered long period of incarceration and there is remote possibility of the trial being completed within reasonable period of time. In the case of ***Javed Gulam Nabi Shaikh v/s. The State of Maharashtra, 2024 SCC OnLine SC 1693***, the Supreme Court has relied upon earlier judgments in the cases of ***Hussainara Khatoon & Ors. v/s. State of Bihar, 1981 SCC 81***, ***Kadra Pehadiya & Ors. v/s. State of Bihar, 1981 3 SCC 671***, ***Union of India v/s. K. A. Najeeb, (2021) 3 SCC 713*** and ***Satender Kumar Antil v/s. Central Bureau of Investigation and Anr., (2022) 10 SCC 51***, to hold that in such cases, Constitutional Courts must exercise their power to enlarge the accused under-trials on bail, while imposing appropriate conditions.

8. It is also indicated in the aforesaid judgment and earlier judgments that even in cases, involving offences under special Statutes, where the accused under-trials are required to satisfy a higher threshold for being enlarged on bail, the Constitutional Courts ought to exercise the aforesaid power to grant relief to such accused under-trials.

9. Applying the said position of law to the facts in the present case, this Court is of the opinion that the instant bail application

can be allowed by imposing stringent conditions upon the applicant. It is a matter of record that the applicant was arrested on 12th April 2018 and hence, he has suffered incarceration for more than 6 years and 8 months. Though, charge was framed as far back as in the year 2022, not a single witness has been examined, thereby showing that there is no progress in the trial. There is hardly any possibility of the trial being completed within reasonable period of time. Therefore, this Court, as a Constitutional Court, is inclined to exercise its power in favour of the applicant, by allowing the application, subject to stringent conditions.

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

- (a) The applicant shall be released on bail in connection with FIR No. I-125 of 2018 dated 11th April 2018 registered at Khadakpada Police Station, Dist. Thane, on furnishing P.R. Bond of Rs. 25,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.
- (b) The applicant shall report to the Khadakpada Police Station, Dist. Thane, on first and fourth Monday of every month between 10:00 a.m. and 12:00 noon, during the pendency of the trial.
- (c) The applicant shall cooperate with the trial Court for

expeditious trial and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.

- (d) The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses or any other person concerned with the case.
- (e) The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

11. 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. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

12. The application is disposed of.

MANISH PITALE, J.