

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.5184 OF 2024**

Swaraj Prakash Karale

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Satyavrat Joshi a/w Advocate Ms. Reena Prajapati i/b Advocate Ms. Sakshi Mane, for the Applicant.
Ms. P. P. Bhosale, APP for the Respondent-State.
Ms. Snehal Raje, API, Khed Police Station, Pune-Rural.

**CORAM: MADHAV J. JAMDAR, J.
DATED: 18th DECEMBER 2024**

P.C.:

1. Heard Mr. Joshi, learned Counsel for the Applicant and Ms. Bhosale, learned APP for the Respondent – State.
2. At the outset it is required to be noted that the Applicant has earlier filed Bail Application No. 3054 of 2023. The same was allowed to be withdrawn by this Court, by Order dated 21st March 2024 and liberty has been granted to the Applicant to file fresh Bail Application after a period of 8 months, if there is no substantial progress in the trial.
3. This second Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:

1	C.R. No.	587 of 2022
2	Date of registration of F.I.R.	24/09/2022

3	Name of Police Station	Khed Police Station, District-Pune
4	Sections invoked in F.I.R.	U/s. 307,323, 504, 506 r/w 34 of the Indian Penal Code, 1860
5	Date of incident	23/09/2022
6	Date of arrest	09/10/2022
7	Date of filing of Charge-sheet	25/04/2023

4. The State of Maharashtra has filed Affidavit of Pradipsing Samadhan Sisode, Assistant Police Inspector presently attached to Khed Police Station, Pune-Rural, District-Pune dated 16th December 2024 opposing the Bail Application. In the said Affidavit-in-Reply, the Prosecution case is set out in Paragraph No. 3 which reads as under:-

“3. I say that the prosecution case in brief is as under:-

a). That the Informant namely Ganesh Namdeo Chavhan lodged report with Khed Police Station, inter alia stating therein that on 02.09.2022, there was quarrel between complaint namely Ganesh Chavhan and accused Swaraj Karale and Omkar Bhogade. It is further case of the informant that the said dispute was resolved on the very same day.

b). It is the case of the informant that on 23.09.2023, at about 10.00 p.m., the informant and his brother namely Sagar Chavan were standing near Sai Residency building. At that time, accused namely Swaraj Karale and Omkar Bhogade and two unknown persons came there. It is further case of the informant that Omkar Bhogade was armed with a sickle in his hand and at that time, the said Swaraj Karale told the informant that who is he ? he doesn't know him. Upon which, the informant told the said Swaraj Karale that their dispute was finished and as to why he is stretching the matter? to which the said Swaraj Karale told the informant that the said dispute would not be finished unless and until he kill the

informant. Thereafter, the said Swaraj Karale immediately assaulted a blow of sickle on the head of the informant but informant resisted the same with his left hand. Thereafter said Swaraj Karale and Omkar Bhogade assaulted the informant with the help of sickle on his back and waist, as a result of which, the informant was unconscious and he fell down. Thereafter he was shifted to Gawade Hospital, Khed by his cousin brother namely Sagar Sopan Chavhan where the informant got conscious and his cousin brother namely Sagar Sopan Chavhan told the informant that while he was assaulting with the help of sickle at the hands of the accused persons, at that time, the said Sagar Sopan Chavhan intervened the said quarrel but accused Swaraj Karale and Omkar Bhogade alongwith their two associates also assaulted him with kicks and fist blows and while the said Sagar Sopan Chavhan yelled for help at that time, all of those four accused persons left the spot of incident.

c) On the basis of the complaint lodged by the Org. Complainant/Informant, on 24.09.2022 offence vide C.R. No. 587/2022 for the offences punishable u/Secs. 307, 323, 504,506, 34 of IPC was registered at Khed Police Station, District Pune against (1) Swaraj Prakash Karale, (2) Omkar @ Monya Balasaheb Bhogade and (3) and their two associates and investigation was commenced.

5. It is the submission of Mr. Joshi, learned Counsel for the Applicant, that the Applicant has been arrested on 9th October 2022. Till date there is no progress in the trial. He submitted that by the earlier Order dated 21st March 2024 by which the first Bail Application of the Applicant was allowed to be withdrawn, liberty has been granted to file fresh Bail Application after a period of 8 months. He submits that although, there are two antecedents, the Bail be

granted by imposing strict conditions as there is violation of fundamental right of the Applicant of speedy trial.

6. On the other hand Ms. Bhosale, learned APP strongly opposed the Bail Application. She submits that the Applicant had assaulted the injured with “*Koyata*”. She submits that there are five eye witnesses to the incident. She points out the injury certificate (Page No. 147) and recovery panchnama (Page No. 169) and submits that “*Koyata*” has been recovered at the instance of the present Applicant . She pointed out the statements of witnesses (Page Nos.169-176). She also pointed out CDR report. She therefore submitted that there is material on record clearly showing the involvement of the Applicant in the crime.

7. Ms. Bhosale, learned APP submitted that there are three antecedents, details of which are given in Paragraph No. 14 of the said Affidavit-in-Reply, which reads as under:-

Sr. No.	CR No. & Police Station	U/sec.	Present Status
1	1042/2019 Bhosari	326, 427,34 IPC r/w Sec. 4,25 Arms Act	Court Pending
2	146/2021 Bhosari	307,324,323,34 IPC r/w. 4, 25 Arms Act	Court Pending
3	587/2022 Khed	307, 323,504,506,34 IPC and u/s. 4(25) of Arms Act and u/s. 142 of Bombay Police Act (Present Case)	Court Pending

Ms. Bhosale, learned APP also submitted that externment order has been breached by the present Applicant.

8. She submitted that in view of above circumstances the Bail Application be rejected. There is substance in the contentions raised by Ms. Bhosale, learned APP that the material on record clearly shows the involvement of the Applicant in the crime and therefore, the Applicant is not entitled to be released on Bail on merits.

9. However, perusal of the record further shows that the incident in question took place on 23rd September 2022. The FIR has been registered on 24th September 2022 and the Applicant has been incarcerated since 9th October 2022. As per the chargesheet the prosecution proposed to examine 21 witnesses. Thus, considerable time will be required for conclusion of the trial.

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 If the Applicant’s detention continues, it will amount to an infringement of his fundamental right under Article 21 of the Constitution of India of speedy trial. Therefore, the Applicant is entitled for bail.

11. Although the Applicant is entitled to be released on Bail as the fundamental right of the Applicant of speedy trial is violated, however, as there are two antecedents and externment order has

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

been breached by the Applicant stringent conditions are required to be imposed on the Applicant.

12. Ms. Bhosale, learned APP states that as most of the witnesses are from District-Pune and as the two antecedents are also registered with Police Station in District-Pune the Applicant be directed not to enter District-Pune.

13. Mr. Joshi, learned Counsel for the Applicant after taking instructions states that as several witnesses are from District-Pune and two antecedents are registered in District-Pune, the Applicant will therefore not enter District-Pune and that the Applicant will reside at C/o. Krushna Narayana Lavange, Plot No.4, Santosh Apartments Indiranagar, Nashik-422009.

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

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

16. In view thereof, the following order:

ORDER

(a) The Applicant – Swaraj Prakash Karale be released on bail in connection with C.R. No.587 of 2022 registered with the Khed Police Station, District-Pune on his furnishing P.R. Bond of Rs.1,00,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant shall not enter the District-Pune 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 Indira Nagar Police Station, District-Nashik once a week, on every Sunday between 11:00 a.m. and 1:00 p.m. till the conclusion of the trial. The Police Inspector of Indira Nagar Police Station, District-Nashik 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 prosecution witnesses 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.

17. The Bail Application is disposed of accordingly.

18. 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.]