

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

**BAIL APPLICATION NO. 3190 OF 2023**

Dashrath Bhanudas Shinde @ Vijay

Atmaram Patil

... Applicant

Versus

The State of Maharashtra

... Respondent

**WITH  
INTERIM APPLICATION NO. 1908 OF 2024  
IN  
BAIL APPLICATION NO. 3190 OF 2023**

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Mr. Amit Munde for the Applicant.

Mr. Sagar R. Agarkar, APP for Respondent-State.

PSI - Jalindra Lembhe, Anti Extortion Cell, DCB CID, Mumbai.

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**CORAM: MANISH PITALE, J.  
DATE : 19<sup>th</sup> JULY 2024**

**P.C. :**

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

2. The learned counsel for the applicant is ready for arguments on merits of the case, in order to indicate that the applicant cannot be connected with the alleged offences. It is highlighted that the applicant was not named in the FIR at the first instance but subsequently, he was arraigned as an accused person. It is submitted that apart from the merits of the matter, the applicant deserves to be enlarged on bail since he has remained behind bars

from 20<sup>th</sup> October 2017 i.e. about six years and ten months.

3. It is brought to the notice of this Court that bail application of co-accused Kamalsingh Vijaysingh Rajput i.e. Bail Application No. 3897 of 2022 was allowed by order dated 21<sup>st</sup> June 2024, specifically taking note of the fact that the applicant/co-accused therein had already suffered incarceration for a period of six years and six months. In the present case, as noted hereinabove, the applicant has suffered incarceration for about six years and ten months.

4. The learned counsel for the applicant has placed reliance on orders passed by the Supreme Court and this Court to contend that this Court, as a Constitutional Court, has the discretion to enlarge the accused on bail considering the long period of time of incarceration as an under-trial, particularly when the accused has suffered such incarceration beyond the prescribed minimum sentence for the alleged offences.

5. The learned APP, on the other hand, submits that she has a lot to say on the merits of the matter and that she would be able to demonstrate that a strong case is made out against the applicant for offences under the Indian Penal Code, 1860 (IPC) as well as the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act). It is submitted that the applicant has indeed remained behind bars from 13<sup>th</sup> November 2017.

6. This Court is of the opinion that in the light of recent pronouncements by the Supreme Court and this Court, the long incarceration of the applicant as an under-trial cannot be ignored. Hence, this Court proposes to consider the present bail application only on the touchstone of the period of incarceration undergone by the applicant as an under-trial.

7. The Supreme Court in the case of *Union of India Vs. K. A. Najeer* (judgement and order dated 1<sup>st</sup> February 2021 passed in Criminal Bail Application No.98 of 2021) has emphasized upon the powers of the Constitutional Courts to consider bail applications in situations where the applicants have undergone incarceration as under-trials for a long period of time. It is laid down in the said judgement and order that even in cases concerning special statutes, wherein stringent requirements are to be satisfied for favourably considering bail applications, in situations where the applicants have undergone substantial periods behind bars as under-trials, the Constitutional Courts can exercise discretion in favour of such applicants. The said position of law has been applied by the Supreme Court even in cases concerning offences alleged to have been committed under the MCOC Act. One such order was passed by the Supreme Court on 14<sup>th</sup> October 2022 in S.L.P. (Criminal) No.8496 of 2022 (*Yogesh Vinod Ahiwale Vs. State of Maharashtra*). In the said case, the Supreme Court took into consideration the fact that the petitioner therein had already been incarcerated for about seven years and the trial was

likely to continue for a considerable period of time.

8. The said position of law has been followed by this Court in various orders, even concerning the applicants charged with offences under the MCOC Act. This Court in the order dated 4<sup>th</sup> April 2024 passed in **Bail Application No.1240 of 2023** (*Karan Vishnu Jalpur Vs. State of Maharashtra*) as also in the order dated 29<sup>th</sup> July 2022 passed in **Bail Application No.33 of 2022** (*Anil Shankar Patil Vs. State of Maharashtra*) granted relief to the applicants, who had undergone substantial periods of incarceration awaiting trial while they were charged with the offences under the MCOC Act. In the present case, the applicant is charged with the offences under Sections 387 r/w. 120-B of the IPC and Sections 3(1)(ii), 3(2) and 3(4) of the MCOC Act. The minimum sentence for such offences under the MCOC Act is five years.

9. In the present case, the applicant has already undergone incarceration for about six years and ten months. This Court is informed that four witnesses have been examined and the total number of witnesses to be examined is about 75.

10. The trial would obviously take further time. Hence, following the position of law indicated by the Supreme Court, which has been consistently followed even by this Court, the present application deserves to be allowed. Accordingly, the application is allowed in the following terms:-

- (A) The applicant shall be released on bail in connection with F.I.R. No.47 of 2017 registered at D.C.B., C.I.D. on furnishing P.R. Bond of Rs.50,000/- [Rupees Fifty Thousand only] and one or two sureties in the like amount, to the satisfaction of the trial Court.
- (B) The applicant shall report to the office of D.C.B., C.I.D. on first Monday of each month, between 10:00 a.m. and 12 noon during the pendency of the trial.
- (C) The applicant shall not tamper with the evidence of the prosecution. He shall not influence the informant, witnesses or any other person concerned with the case;
- (D) The applicant shall co-operate with the proceedings before the trial Court, for expeditious completion of the trial and he shall attend each and every date, unless specifically exempted by the trial Court.
- (E) Upon being released on bail, within two weeks, the applicant shall communicate the details of his contact number and residential address to the trial Court.

11. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by

the observations made in this order.

12. The application is disposed of.

13. In the light of the present bail application being allowed, the Interim Application filed on behalf of the applicant from jail is also disposed of.

**MANISH PITALE, J.**