

PURTI
PRASAD
PARAB

Digitally signed by
PURTI PRASAD
PARAB
Date: 2024.11.28
14:18:26 +0530

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

CRIMINAL BAIL APPLICATION NO. 3645 OF 2023

Sanjay Baliram Shinde

Age : 33 Years, Occ.: Police Officer

R/at : Atharva Heights, Gopalwadi Road,

Daund, Pune.

Presently languishing in Yerwada Jail

....Applicant

V/s.

The State of Maharashtra

ondent (Through Daund Police Station

C.R. No. 51/2022)

...Respondent

**ALONGWITH
INTERIM APPLICATION NO. 2048 OF 2024
IN
CRIMINAL BAIL APPLICATION NO. 3645 OF 2023**

Gajanan Kaluram Shinde

Age : 38 years, Occ.: Labour

R/at : Devakinagar, Daund,

Tal.: Daund, Dist.: Pune

....Applicant
(Ori. Complainant)

In the matter between

Sanjay Baliram Shinde

Age : 33 Years, Occ.: Police Officer

R/at : Atharva Heights, Gopalwadi Road,

Tal.: Daund, Dist.: Pune.

....Applicant

V/s.

The State of Maharashtra

At the instance of Senior Inspector

of Police, Daund Police Station,

Tal.: Daund, Dist.: Pune.

...Respondent

Ms. Sana Raees Khan a/w Mr. Aditya Parmar for Applicant in
BA/3645/2023.

Mr. C.D. Mali, APP for State.

Mr. Prashant S. Hagare a/w Mr. Krishna A. Tarde for Applicant in
IA/2048/2024.

Mr. D.V. Kumbhar, GPSI attached to Daund Police Station present.

CORAM : BHARAT P. DESHPANDE, J.
RESERVED ON : 26th NOVEMBER 2024
PRONOUNCED ON : 28th NOVEMBER 2024

JUDGMENT :

1. This is an application for grant of bail filed by the accused who is facing charge of triple murder under Section 302 and 409 of the Indian Penal Code, 1860 (the IPC) and under Section 3, 25 and 27 of the Arms Act, 1959 (the Arms Act).

2. Heard Ms. Khan learned counsel for the applicant, Mr. Mali learned APP for the State and Mr. Hagare learned counsel for the complainant.

3. The contention which require consideration in the present application is delay in trial. Learned counsel for the applicant strongly contended that the applicant was arrested somewhere in the year 2018 and till date the trial has not been concluded. She submits that long incarceration of the accused is violating his rights under Article 21 of the Constitution of India of speedy justice. She would submit that there are still many witnesses which are required to be examined by the prosecution and there is no possibility of conclusion of trial in near future. She submits that though the charge was framed and the trial commenced, however there is no substantial progress. Learned counsel for the applicant placed reliance on the following decisions :

1. *Sagar Ashok Satkar vs. The State of Maharashtra*¹
2. *Monu Kisanlal Kumar vs. The State of Maharashtra*²
3. *Sunita Prakash Satav vs. The State of Maharashtra*³
4. *Prasad Kailas Thombare vs. The State of Maharashtra*⁴
5. *Chintan Vidyasar Upadhyay vs. The State of Maharashtra*⁵
6. *Indrani Pratim Mukerjee vs. Central Bureau of Investigation and Anr.*⁶
7. *Zahur Haider Zaidi vs. Central Bureau of Investigation*⁷
8. *Sagar Tatyaram Gorkhe & Anr. vs. The State of Maharashtra*⁸
9. *Avinash Anant Pawar @ Ajit Dada vs. The State of Maharashtra*⁹
10. *Paras Ram Vishnoi vs. The Director, Central Bureau of Investigation*¹⁰
11. *Rohit Dattatraya Shende vs. The State of Maharashtra and Anr.*¹¹

4. Per contra, learned APP appearing for the State would submit that the offence is very serious as the applicant/accused being a police officer, used his service revolver and fired as many as 12 shots for killing three persons at the spot. He submits that there was no provocation from the side of the deceased. Only on some trivial financial dispute, deceased persons were shot with multiple rounds.

1 Criminal Appeal No. 2870 of 2024 Dated 12th July 2024

2 Petition(s) for Special Leave to Appeal (Crl.) No(s). 1595 of 2024 Dated 13th May 2024

3 Petition for Special Leave to Appeal (Crl.) No. 8287 of 2022 Dated 3rd September 2024

4 Petition(s) for Special Leave to Appeal (Crl.) No(s). 7517 of 2024 Dated 13th July 2024

5 Petition(s) for Special Leave to Appeal (Crl.) No(s). 2543 of 2021 Dated 13th September 2021

6 Petition(s) for Special Leave to Appeal (Crl.) No(s). 1627 of 2022 Dated 18th May 2024

7 Criminal Appeal No. 605 of 2019 Dated 5th April 2019

8 Criminal Appeal No. 11 of 2017 Dated 3rd January 2017

9 Petition for Special Leave to Appeal (Crl.) No. 1452 of 2022 Dated 11th August 2022

10 Criminal Appeal No. 693 of 2021 Dated 27th July 2021

11 Criminal Appeal No. 3443 of 2024 Dated 20th August 2024

5. Learned APP would submit that the trial is progressing and many witnesses have been examined, however at present only 5 to 8 witnesses are remaining to be examined. He submits that though there is delay in trial that cannot be the only ground to grant bail since the accused if released on bail may commit serious offence and even threaten the witnesses as he had earlier worked as police officer.

6. The application is filed on behalf of the complainant for intervention in the present matter. Admittedly, no reply is filed on behalf of the applicant. There is no serious opposition in connection with the intervention application. Thus, the arguments on behalf of learned counsel for the complainant is also heard.

7. Learned counsel for the complainant would submit that the accused killed his brother and another relative which he has witnessed. The incident took place in a market area and without any provocation. He would submit that in case the accused is released on bail, there is serious threat to the life and liberty of the complainant and other witnesses. He further submits that lastly the matter was taken up on 14th November 2024 wherein one witness is partly examined and now the matter is fixed on 25th November 2024. He submits that the court is taking up the matter and only few witnesses are remaining. He as well as the learned APP would submit that the matter will be disposed of by the Trial Court shortly.

8. Learned counsel for the complainant placed reliance on the following decisions :

1. Gurwinder Singh vs. State of Punjab & Another¹²

2. Pradeep Pandurang Mane vs. The State of Maharashtra¹³

3. Sumit Suresh More vs. The State of Maharashtra¹⁴

4. Somnath Bhivaji Gaikwad vs. The State of Maharashtra & Anr.¹⁵

5. Kailash S/o Premchand Ramchandani vs. The State of Maharashtra & Anr.¹⁶

9. Since the charge was framed against the applicant/accused on 10th July 2018, initially there was no progress in the trial, however when this Bail Application was filed, some witnesses were already examined. It is no doubt true that the trial is not progressing on day to day basis as required to be carried out by the court. However, the offence is very serious in nature and that too committed by the police officer by using his service revolver. In all 12 bullets were fired wherein three persons expired.

10. The matter would go to show that the deceased brother of the complainant and his relative were having discussion with the accused in connection with some financial matters, in the market itself during broad day light. The complainant was present and he tried to pacify the accused

12 2024 INSC 92

13 Bail Application No. 1496 of 2022 Dated 16th April 2024

14 Bail Application No. 1239 of 2023 Dated 4th April 2024

15 Bail Application No. 1443 of 2023

16 Criminal Appeal No. 1249 of 2023 Dated 5th March 2024

and assure him that the amount will be returned to him shortly. However, as found in the complaint, the accused without any provocation from the deceased persons, fired multiple shots which resulted instantaneous death of the brother of the complainant and his relative at the spot. It has also alleged that thereafter the accused left the said spot on his scooter and then again fired shots on another person killing him within a short period of time.

11. Be that as it may, it is no doubt true that there is delay in conducting the trial, however matter is progressed substantially and now as per the learned APP's instructions, some 5 to 8 witnesses are remaining. Thus, the Trial Court is expected to conduct the trial by remaining witnesses on day to day basis as far as possible. The possibility of conclusion of trial is therefore clearly visible in near future.

12. The decisions referred by the learned counsel of the applicant in the case of *Sagar Ashok Satkar* (supra), *Monu Kisanlal Kumar* (supra), *Sunita Prakash Satav* (supra), *Prasad Kailas Thombare* (supra), *Chintan Vidyasar Upadhyay* (supra), *Indrani Pratim Mukerjea* (supra), *Zahur haider Zaidi* (supra), *Sagar Tatyaram Gorkhe* (supra) and *Avinash Anant Pawar* (supra) would clearly revealed that in these cases it is observed that there is no possibility of conclusion of trial in near future.

13. In the case of *Gurwinder Singh* (supra), *Pradeep Pandurang Mane* (supra) and *Sumit Suresh More* (supra), it has been observed that since the crime is of heinous nature and possibility that the trial would be concluded has been pointed out, the bail has been rejected.

14. The roznama which has been produced by the learned counsel for the complainant would to go show that the matter is progressing and as informed by the learned APP only 5 to 8 witnesses are remaining.

15. The circumstances in the present matter would go to show that the accused if released on bail, there is every likelihood that he may commit similar offence or threaten the witnesses who are remaining to be examined or even the witnesses who have already deposed against him. The accused being police officer, allegedly killed three persons without any provocation and thus it would be difficult even at this stage to consider his Bail Application on the ground of delay in trial. Even otherwise the learned Sessions Court be directed to complete the trial by examining the balance witnesses on day to day basis.

16. In all the above reasons, I am not inclined to accept the contentions of the applicant. Accordingly, Bail Application stands rejected.

17. The learned Sessions Court is therefore directed to fix the trial programme on day to day basis for examining the remaining witnesses.

18. Bail Application stands disposed of.

19. In view of the above, Interim Application No. 2048 of 2024 also stands disposed of.

(BHARAT P. DESHPANDE, J.)