



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 536 OF 2024

Balwant s/o Natthu Nikam Patil
Age : 57 years, Occ: Labour
R/o: 52, Krushi Colony, Deopur,
Dhule, Taluka and District Dhule.

... Applicant

Versus

1. The State of Maharashtra
At the instance of Deopur
Police Station, Dhule.

2. X Y Z

... Respondent

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Mr. P. B. Jadhav, Advocate for the Applicant (appointed through
Legal Aid)

Mr. V. M. Jaware, APP for Respondent No.1-State.

Ms. Rutuja L. Jakhade, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 07.01.2025

ORDER :

1. Present bail application is pressed into service on the ground of
delay in conducting trial.

2. Learned counsel for the applicant pointed out that applicant is
arrested in crime no. 41 of 2022 registered at Deopur Police Station,
District Dhule for offence under Section 376(2)(i) of IPC and Sections
4, 8 and 12 of the Protection of Children from Sexual Offences Act,

2012 [POCSO] Act. Learned counsel submitted that, present application is successive bail application. Though case is committed and trial has commenced, it is progressing at snail's pace. Applicant is behind bars since 19.02.2022 i.e. since FIR. Investigation is already over in 2022 and case is also committed. He pointed out that, prosecution intends to examine 24 witnesses, but till today only 4 witnesses are examined. That, trial is not being concluded expeditiously. He has a right of expeditious trial and therefore, learned counsel prays for grant of bail or directions to learned trial court to expeditiously conclude the trial.

In support of above contentions, learned counsel for the applicant placed reliance on the following rulings :

1. ***Javed Gulam Nabi Shaikh v. State of Maharashtra*** 2024 SCC OnLine SC 1693.
2. ***Siddhant @ Sidharth Balu Taktode v. The State of Maharashtra and another*** [Criminal Appeal arising out of SLP(Cri.) No. 12939 of 2024 decided by the Hon'ble Apex Court on 18.12.2024.
3. ***Jagdishsing Harising Bavari v. The State of Maharashtra and another*** [Bail Application No. 1518 of 2024 decided by Single Judge of this Court on 14.10.2024.

3. Learned APP submitted that trial is already under way. That, four witnesses are examined and last witness is now sought to be recalled by applicant himself, and hence it is submitted that , it is not open for the applicant to allege slow progress in trial.

4. The facts in the cases/rulings relied by learned counsel for the applicant are distinct and cannot be made applicable to the case in hand as, here, trial has already commenced. Admittedly, applicant is arrested in February 2022 on accusations of committing above offence. Victim is shown to be 6 years old. No doubt, after investigation charge-sheet is filed, case is committed and trial has also commenced. Now, it is pointed out that applicant is behind bars for almost three years and that there is a long list of witnesses and trial is not proceeding expeditiously. It is specifically submitted that in the year 2024, only 4 witnesses were examined by trial court.

5. In the light of above submissions and on going through the *roznama*, it does appear that trial is conducted vide Special Case No. 45 of 2022. Since 18.04.2022 matter is shown to be in the category of “evidence part heard”, i.e. till 11.11.2024. Later on copy of roznama dated 06.01.2025 reflects that matter is still shown as “evidence part

heard”. Learned APP did not dispute that prosecution intends to examine 24 witnesses. Submissions made by learned counsel for the applicant before this Court that, as on today only 4 witnesses are examined, is also not refuted by learned APP. Therefore, considering above dates, apparently session which was committed in April 2022 has only progressed to the extent of examining four witnesses.

6. This Court is aware that all learned trial courts are burdened with cases and there are other external factors like availability of witnesses as well as other aspects due to which, in spite of best efforts, trial court is not in position to conduct matters on day to day basis. However, considering the above dates and current status, learned trial Judge is requested to make sincere endeavor to conclude the trial as early as possible. With such observations, application is disposed of.

[ABHAY S. WAGHWASE, J.]

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