



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1885 OF 2024

1. Chabbadas S/o Bhavlal Vaishnav
Age 30 years, Occupation Labour,
R/o Galli No. 5, Jadhavwadi,
District Aurangabad.
2. Sonali W/o Sadashiv Shinde
Age : 30 years, Occupation Labour,
R/o Galli No.5, Jadhavwadi,
District Aurangabad. ... Applicants

Versus

The State of Maharashtra,
Through Chikalthana Police Station,
Aurangabad. ... Respondent

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Mr. Chaitanya C. Deshpande, Advocate for the Applicants.
Mrs. Vaishali S. Chaudhari, APP for Respondent-State.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 19.03.2025
Pronounced on : 20.03.2025

ORDER :

1. Applicants seek grant of regular bail on account of their arrest in crime no. 177 of 2019 registered at Chikalthana Police Station, District Aurangabad Rural for offence punishable under Sections 302, 201 and 120(B) of IPC.

2. Learned counsel for the applicants submitted that applicants are arrested on 05.06.2019 and 06.06.2029 respectively, and as such, are behind bars since long. However, he fairly pointed out that applicants were beneficiaries of temporary bail during Covid period, but according to him, thereafter they have surrendered. Learned counsel submitted that there is no convincing, cogent evidence regarding involvement of applicants. Investigating machinery has recorded statement of only one witness. He further pointed out that informant brother himself is now ready to give 'no objection' for grant of bail. That, applicants did not avoid surrender after Covid period. He pointed to the order passed by learned Additional Sessions Judge dated 23.08.2024 and stated that applicants were directed to surrender before the court on 06.07.2020 or till such a time the State Government withdraws the notification under Epidemic Act 1987, whichever is earlier. That, no such notification nor any directions were issued by the State Government. Therefore, applicants did not surrender. Now applicants are behind bars since long and charge sheet having been filed on 31.08.2019 itself, learned counsel seeks relief of bail.

3. Learned APP opposed on the ground that there is no change in the circumstance. Previous bail applications were rejected on merits. She strongly pointed out that applicants have misused the liberty of temporary bail granted during Covid, and have absconded for more than four years and that, learned trial court was required to issue Non Bailable Warrant to procure custody of the applicants. Therefore, with such conduct on the part of the applicants, she strongly opposed grant of bail.

4. Heard. Perused the papers. Instant crime seems to be registered at Chikalthana Police Station bearing no. I-177 of 2019 for offences punishable under Sections 302, 201 and 120(B) of IPC on 24.05.2019. In above crime, investigating machinery has apprehended present applicants on the premise that applicant no.1 had affair with applicant no.2 and they feigned that applicant no.2 is dead and planted articles of applicant no.2 near the dead body of Rukhmanibai, who was shown to be burnt. Investigation revealed that above episode was a set up, and on above allegations, applicants are said to be arrested on 05.06.2019 and 06.06.2019, respectively.

5. It further appears that after the onset of Covid, along with other prisoners, both present applicants took benefit of temporary bail. Further, while other prisoners surrendered after the Covid period, and directions were issued to surrender, both present applicants kept themselves away and only on issuance of NBW, they have made themselves available on 12.07.2024 and are shown to be in judicial custody since then, i.e. since last more than eight months. *Prima facie* there is no direct evidence. It is true, as submitted by learned APP that, both applicants have misused temporary Covid bail and they did manage to keep themselves away for four years. However, they are back in judicial custody since July 2024, i.e. since last eight months. Further, report received from learned trial Judge dated 04.03.2025 itself shows that, approximately further six to nine months time would be required to dispose off the case. Such report apparently indicates that conclusion of trial is uncertain. Therefore, for all above reasons, only on the ground of long pre trial incarceration, applicants succeed. Hence, I proceed to pass the following order :

ORDER

I. The application is allowed.

II. Applicants be released on bail in connection with Crime No. 177 of 2019 registered at Chikalthana Police Station, District Aurangabad, on executing Personal Bond of Rs. 15,000/- each, with one surety each, in the like amount, on the following conditions:

[a] The applicants shall not tamper prosecution evidence.

[b] The applicants shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.

[c] The applicants shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]

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