



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2016 OF 2024

1. Ganesh S/o. Ganpat Popat Wakade,
Age : years, Occu. Labour,
R/o. Bhokar, Tq. Shrirampur,
Dist. : Ahmednagar.
2. Santosh S/o. Krishna Rautray,
Age : years, Occu. : Labour,
R/o. Nighona, Tq. Phulambri,
Dist. Aurangabad.

... Applicants.
(Orig. Accused)

Versus

The State of Maharashtra,
Through Police of Gangapur
Police Station, Aurangabad.

... Respondent

.....

Mr. Chaitanya C. Deshpande, Advocate for the Applicants.
Mr. V. M. Jaware, APP for Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 10.03.2025.

Pronounced on : 11.03.2025.

ORDER :

1. Present application is for grant of regular bail primarily on the ground of delayed trial, in crime no.312 of 2020 registered at Gangapur Police Station, District Aurangabad for offences punishable under Sections 302, 201, 120-B read with section 34 of Indian Penal Code and under sections 4/25 & 27 of the Arms Act.

2. Pointing to the date of arrest as 26.10.2020, it is submitted that, FIR is of 22.08.2020. That, there are allegation of commission of murder of unknown lady by beheading, by unknown person, for unknown reason. That, dead body was noticed in the vicinity of bank of a river. That, there is no direct evidence and case is based on circumstantial evidence. That, investigation is already over and charge sheet is filed in January 2021 itself. That, nothing further is shown to be recovered or discovered at the instance of applicants. Learned counsel would emphasized that, charge is already framed in July 2022 itself, but unfortunately according to him, as on today only 11 to 12 witnesses are examined and as such trial is proceeding in the extremely slow pace. That, applicant is behind bars since more than four years. That, prosecution is intending to examine 47 witnesses. He further pointed out that, moreover, initially case was on the file of Additional Sessions Judge, Vaijapur, but recently, on account of establishment of new Sessions Sub Division at Gangapur and incident having taken place in jurisdiction of Gangapur, file would further get transferred there and this would also further contribute to the delay in trial on account of formation of new court. Hence, the learned counsel seeks release of applicant on regular bail on suitable conditions deemed fit by this court.

3. Learned APP opposed on the ground that, here, charge is framed. That, investigation is in progress. According to him, there is strong incriminating material regarding involvement of applicant. He further submitted that, though list of proposed witnesses to be examined on behalf of prosecution is 42 witnesses, he points out that, it may so happen that prosecution may drop or give up some witnesses. On all above counts, bail is opposed.

4. Heard. The principle ground for grant of bail is long pre-trial incarceration of more than four years. As pointed out, FIR dated 22.08.2020 registered at Gangapur Police Station is apparently by police official on information given by one Narayan Shinde regarding dead body of unknown female lying on the bank of river Shivna. From the FIR it is emerging that, it was a torso i.e. body without head. Police Officer has lodged crime regarding murder of unknown lady, by unknown person, for unknown reason. In such FIR, applicant is shown to be arrested after 2 months i.e. on 26.10.2020. Investigation is said to be over and charge sheet is filed on 20.01.2021 regarding which even learned APP does not dispute. He also does not dispute that there is a list of 47 witnesses proposed to be examined by prosecution and only 12 witnesses are shown to be examined, in spite

of charge being framed in July 2022 itself. Statement is made across the bar by learned counsel for applicants, again of which there is no dispute by learned APP that, after constitution and establishment of new Sessions Sub Division at Gangapur, crime being of said jurisdiction i.e. sessions case from the file of learned Additional Sessions Judge Vaijapur would automatically get transferred to Gangapur. Therefore, as submitted, this is also likely to contribute to further delay in trial. This court cannot be oblivious of the fact that arrest is of October 2020 and charge is already framed in July 2022 itself. Therefore, considering long list of witnesses, who are yet to be examined, there are no chances of sessions case coming to an end in immediate near future also. On sole ground of long incarceration, applicant succeeds. Hence, I proceed to pass the following order:

ORDER

- I. The application is allowed.
- II. Applicants, namely (i) Ganesh S/o. Ganpat Popat Wakade and (ii) Santosh S/o. Krishna Rautray be released on bail in connection with Crime No.312 of 2020 registered with Gangapur 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.]