



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2294 OF 2024
WITH
CRIMINAL APPLICATION NO.5036 OF 2024

Rameshwar S/o. Asaram Narwade,
Age : 31 years, Occu. : Agri.,
R/o. Jogeshwari, Tq. Gangapur,
District Aurangabad

... Applicant

Versus

The State of Maharashtra,
Through M.I.D.C. Waluj Police Station,
Aurangabad

... Respondent.

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Mr.N. J. Sonune, Advocate for Applicant in BA/2294/2024.

Mr.V. M. Jaware, APP for Respondent – State.

Mr.A.R. Ban h/f. Mr. R. V. Gore, Advocate for Applicant (Assist to PP)
in Cri.Appln.5036/2024.

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CORAM : ABHAY S. WAGHWASE, J.

DATED : 4th MARCH 2025

ORDER :

1. Applicant seeks grant of regular bail on account of his arrest in Crime No.193 of 2022 registered at M.I.D.C. Waluj Police Station, Dist. Aurangabad for commission of offence punishable under sections 302, 307, 325, 326, 323, 504 r/w section 34 of Indian Penal Code (IPC).

2. Criminal Application No.5036 of 2024 is allowed. The original complainant is permitted to assist the learned A.P.P.

3. Pointing to the date of arrest as 11.03.2022, it is submitted that, FIR is on 10.03.2022 regarding alleged occurrence dated 07.03.2022. Learned counsel submitted that, allegations are against three accused i.e. father and sons. That, there is no eye witness. That, incident had taken place in the backdrop of watering the field for the common well. That, parties are neighbours. Learned counsel submitted that, accused no.3 is already beneficiary of bail. That, there are variances in the statement given to police and the statement given before learned Magistrate. That, in supplementary statement different statement has been given. That, investigation is already over. Charge sheet is filed in June 2022 itself. That, applicant is behind bars since long. That, trial has not yet commenced. He pointed out that, on most of the dates accused is not produced, even complainant is remaining absent, in spite of charge being framed on 25.11.2022 itself. That, even roznama suggests that, court is also on leave or busy in recording evidence in other cases. Learned counsel has placed on record copy of roznama and according to him, there is pre-trial incarceration and there are no immediate prospects of matter coming to an end in near future.

4. Learned APP as well as learned counsel for complainant opposed on the ground that, there is eye witness account. However,

learned APP pointed out that, indeed charge is framed on 25.11.2022 itself, but thereafter for some or the other reason, evidence is not recorded.

5. In the light of above submissions, this court by order dated 04.02.2025 sought report from learned trial Judge to ascertain the current status and probable time required for conclusion of trial. This court is in receipt of report dated 11.02.2025, stating that, since framing of charge dated 25.11.2022, matter was posted for examination of witness i.e. informant, but on couple of dates i.e. up to 09.05.2024 informant was shown to be present, but Advocate of accused was not present and therefore evidence was not concluded. It is further reported thatm on 15.01.2025 as informant was absent,ailable warrant was issued against informant. Court has also conveyed that, accused are also protracting the trial and even counsel for accused has remained absent on eight dates. Finally learned trial Judge has conveyed that 20 witnesses have been cited by the prosecution, but till today not a single witness has been examined and that if accused persons co-operates in trial, the court estimates that the trial would be concluded within six to eight months.

Thus from above report, it is clearly emerging that, in spite of case being of 2022 and after its committal, in spite of charge

being framed on 25.11.2022, surprisingly evidence has not yet commenced i.e. of even informant. Learned trial court has conveyed the dates, on which, informant kept away from court and it is reported that ultimately bailable warrant was required to be issued to seek presence of informant. Accused are also blamed for moving bail application and counsel for accused remaining absent. Be it so. It is apparent that, since November 2022, matter has not progressed for evidence. This is March 2025. Recent report of trial court shows that mere probability is expressed that, if parties co-operate, then matter would be concluded within six to eight months. Thus, approximately another year would pass. Applicant is behind bars since 11.03.2022 i.e. almost three years. Definitely this amounts to long pre-trial incarceration. Therefore, without going into the merits, taking the roznama, date of framing charge and more particularly report of trial court, this court is constrained to grant bail by imposing conditions. Hence, the following order is passed :-

ORDER

- (i) The application is allowed.
- (ii) Applicant Rameshwar S/o. Asaram Narwade be released on bail in connection with Crime No.193 of 2022 registered with M.I.D.C. Waluj Police Station, Dist. Aurangabad on executing P.B. of Rs.15,000/- with one surety in the like amount, on the following conditions :

- (a) Applicant shall not tamper prosecution evidence.
- (b) Applicant shall not enter the vicinity where the informant and his family members reside, till conclusion of trial.
- (c) Applicants shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.
- (d) Applicant shall regularly attend each and every effective date before the trial court.

(ABHAY S. WAGHWASE, J.)