

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1 OF 2025

Saifali Ashraf Shaikh

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Taraq Sayed a/w Ms. Ashwinii Acharii and Mr. Anish Pereira, learned Advocates for the Applicant.

Ms. Veera Shinde, learned A.P.P. for the State/Respondent.

Mr. Narayan G. Rokade a/w Mr. Siddharth Ghodke and Mr. Abhang Suryawanshi, learned Advocates for the Complainant/Respondent No. 2. PSI Mr. Gopi Walmiki attached to Vijapur Naka Police Station, District-Solapur is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 17th JULY 2025.

P.C. :

1. Heard Mr. Taraq Sayed, learned Advocate for the Applicant, Ms. Veera Shinde, learned A.P.P. for the State/Respondent and Mr. Narayan Rokade, learned Advocate for Respondent No. 2.

2. Applicant, by the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), is before this Court seeking regular bail in connection with Crime No. 694 of 2020 registered with Vijapur Naka Police Station, District-Solapur for the offences punishable under Sections 302 and 380 of the Indian Penal Code, 1860 (“**IPC**” for short). Said crime is registered as Sessions Case No. 5 of 2021 and is pending on the file of learned Additional Sessions Judge, Solapur.

3. Aforesaid crime was registered pursuant to the F.I.R. lodged by Vijaykumar Gurupadappa Swami (Informant). Case of the prosecution is that Nagdevi (deceased), sister of the Respondent No. 2 (Informant) was staying alone in a bungalow. Decomposed body of deceased was found in the said bungalow in suspicious circumstances. CCTV footage of the bungalow showed that the Applicant, son of the watchman residing in a shade in the same vicinity had entered the house and thereafter the CCTV Camera was switched off.

4. Applicant is the sole accused in the present crime. He was arrested on 1st July 2020 and since then he is in jail. First Bail Application at Exhibit-8 filed by the Applicant before the learned Additional Sessions Judge, Solapur in Sessions Case No. 5 of 2021 was rejected by order dated 16th June 2021. Applicant approached this Court by filing Criminal Bail Application No. 1316 of 2021. Vide order dated 9th March 2023, this Court rejected the said Bail Application, by observing the following in paragraph no. 4 of the order :-

“The records reveal that the place of the incident was searched. A strand of hair, which was found at the place of the incident was sent to the forensic examination along with specimen hair of the Applicant. The report shows that the hair found at the spot of the incident matches with the specimen hair of the Applicant. The records reveal that finger prints of the Applicant are found at the place of the incident. The record further reveals that the sim card belonging to the deceased was recovered from the Applicant. There are statements of the witnesses, who have also stated that they had seen CCTV footage

and had identified the Applicant entering the house on 27th June 2020 and the CCTV was also switched off since then. All these factors show the involvement of the Applicant in commission of the crime, which is of serious nature.”

5. Applicant filed second Bail Application at Exhibit-27 in Sessions Case No. 5 of 2021 before the learned Additional Sessions Judge, Solapur, which was rejected by the learned Trial Court by order dated 27th February 2025. Paragraph no. 7 of the said order is transcribed hereinbelow :-

“The last aspect which has been hammered on behalf of the accused is that of long incarceration of the accused. However, it needs to be noted that the present offence is under Section 302 of IPC and the programme for the sessions has already been fixed. However due to the procrastination of the trial by the accused by filing the bail applications either before this Court or before the Hon’ble High Court, the trial has not commenced. Accordingly, even on that count the application is not maintainable.

(emphasis supplied)”

6. Applicant filed third Bail Application at Exhibit-41 in Sessions Case No. 5 of 2021. By order dated 21st October 2024, the learned Additional Sessions Judge, Solapur rejected the said Bail Application. Paragraph no. 8 of the said order is transcribed hereinbelow :-

“The further ground on which the accused is trying to seek bail that, it is because of the fact that the muddemal is not produced the trial is prolonged, there is no merit in the application as the prosecution has already filed on

record the list of witnesses not just that, but even the witnesses were present for the hearing. However as the accused sought change of advocate, the trial could not proceed further. Even today the learned D.G.P has filed the programme proceeding with the trial. Accordingly, there is no substance in the said plea raised by the accused.

(emphasis supplied)”

7. Mr. Taraq Sayyed, learned Advocate for the Applicant submits that the Applicant is seeking bail on the ground of long incarceration. He submits that the Applicant is in jail since the month of July 2020 and he continues to be in jail as an under-trial. He submits that though the trial has commenced, the same is proceeding at a slow pace. He therefore submits that the Applicant exercises his right of denial of the speedy trial.

8. Mr. Taraq Sayyed, learned Advocate also relies on the following decisions of Hon’ble Supreme Court in the cases of :-

- a. *Praveen Rathore v/s. State of Rajasthan and Another*¹,
- b. *Rup Bahadur Magar @ Sanki @ Rabin v/s. State of West Bengal*²,
- c. *Javed Gulam Nabi Shaikh v/s. State of Maharashtra and Another*³ and
- d. *Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari v/s. State of Uttar Pradesh*⁴.

1 2023 SCC OnLine SC 1268.

2 Criminal Appeal No. 4144 of 2024 decided on 4th October 2024.

3 Criminal Appeal No. 2787 of 2024 decided on 3th July 2024.

4 2024 SCC OnLine SC 1755.

9. Ms. Veera Shinde, learned A.P.P. for the State/Respondent submits that the Bail Applications filed by the Applicant before the learned Sessions Court as also before this Court, were rejected on merits. She submits that this Court upon considering the seriousness and the gravity of the offences, has rejected the request of Applicant for bail on merits. She submits that the learned Sessions Court has considered the contention of Applicant of being in jail for a long period and has rejected the same for the reasons, which are valid and sustainable in law. She submits that the crime committed by the Applicant is serious in nature and as such, no indulgence be shown to the Applicant. She places reliance on the order dated 30th June 2025, passed by this Court in Criminal Bail Application No. 4049 of 2024 to submit that the long incarceration in serious offences, *per se* is not a ground for releasing the accused on bail. She submits that the trial could not commence as the Expert's Opinion/Report in respect of technical matters involved in the crime was awaited. She submits that upon receipt of an Expert's Opinion, the trial has commenced. She submits that the prosecution would positively complete examination of all the prosecution witnesses within a period of 6 months from today and would try to assist the Court in completion of the trial expeditiously.

10. Mr. Narayan Rokade, learned Advocate for Respondent No. 2 submits that the Applicant has committed a serious crime. He submits that long incarceration cannot be a ground in serious matters, more so when the trial in Sessions Case No. 5 of 2021 has commenced and is proceeding. He submits that the learned Sessions Court has recorded that the Applicant is delaying the

proceeding. He submits that today (17th July 2025), the matter was fixed before the learned Trial Court for recording evidence of the Complainant, however, due to the unjustified absence of learned Advocate representing the Applicant before the learned Trial Court, cross-examination of the Complainant is deferred. He submits that the the said conduct of Applicant is sufficient to indicate the Applicant is attempting to delay the trial.

11. I have perused the records with the assistance of learned Advocates of the parties.

12. This Court upon consideration of the merits as well as the gravity of the offence charged against the Applicant, had rejected Criminal Bail Application No. 1316 of 2023.

13. Sole ground urged in the present Bail Application is of long incarceration. Though the Applicant is in jail for a period of about 5 years from the date of his arrest, trial in Sessions Case No. 5 of 2021 has commenced. Ms. Veera Shinde, learned A.P.P. submits that the trial was commenced immediately upon receipt of the Expert's Opinion in respect of the CCTV footage, which opinion was necessary for the commencement of trial.

14. Punishment for the offences charged in the present crime carry a sentence of imprisonment for life or death. Ms. Veera Shinde, learned A.P.P. has assured this Court that the prosecution would complete examination of the prosecution witnesses, positively within a period of 6 months from today and assist the learned Trial Court in expeditious disposal of the said proceedings, subject to the Applicant co-operating in the trial.

15. Decisions relied on by Mr. Taraq Sayed, learned Advocate for the Applicant pertains to long incarceration. The distinguishing factor in the case in hand is that the Bail Application of the Applicant was rejected on merits and the trial is in progress.

16. In view of the facts and circumstances of the present case, viz. the earlier Bail Application of the Applicant being dismissed on merits and the trial in Sessions Case No. 5 of 2021 is progressing, I do not find this case to be a fit case to release the Applicant on the ground of long incarceration. The Applicant is not entitled for discretionary reliefs.

17. In the result, Criminal Bail Application No. 1 of 2025 stands rejected in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

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