

Nikita

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1112 OF 2024

Rahul Damodar Ghule

... Applicant

V/s.

The State of Maharashtra

... Respondent

NIKITA
KAILAS
DARADE
ADVOCATE
PUNE
PHONE: 98220 40117
98220 40118

Mr. Satyavrat Joshi a/w Mr. Samay Pawar a/w Ms. Reena
Prajapati a/w Mr. Ashish Kachole for the Applicant.

Ms. Anamika Malhotra, APP for the State.

Ms. Deepali Bhujbal, I. O. EOW Pune.

CORAM : ASHWIN D. BHOBE, J.

DATED : 14th JULY, 2025

P.C.:

1. Heard Mr. Satyavrat Joshi learned Advocate for the Applicant and Ms. Anamika Malhotra learned APP for the State.
2. Applicant by the present application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is seeking bail in connection with C.R. No.93 of 2015 registered with Vishrantwadi Police Station, Pune for the offences punishable under Sections 409, 420, 465, 467, 468, 471, 472, 201 r/w 34, 120(B) of the Indian Penal Code and under Sections 13(2) read with 13(1)(C)(D) of the Prevention of Corruption Act, 1988. Said crime is registered as Special (ACB) Case No.31 of 2018.
3. FIR is registered on basis of report lodged by Narendrakumar Gopinath Kale (Complainant). Case of the prosecution is that

Dnyaneshwar Jagtap (Accused No. 1), serving as the Bank Manager of Union Bank of India, in connivance with Anup Choube and approximately 32 other individuals, organized a large-scale fraud causing wrongful loss of several lakhs of rupees to the Bank, by opening fake accounts and creating fake documents in the name of various persons.

4. Accused No.1 i.e. Bank Manager of Union Bank of India against whom the allegations are of accepting and sanctioning loan proposals with forged/false documents, in collusion with the other Accused, was released on Default Bail (as the prosecution failed to submit charge-sheet in 90 days from the date of first production of the Accused before the Court), by the Sessions Court vide order dated 30.03.2017 passed on Exhibit-1, in Criminal Bail Application No.1039 of 2017 (page no. 440 to 442).

5. Dhiraj Chachalani (Accused No.2) in the said crime against whom allegations are of forging documents/creating false documents, was released on bail by the learned Additional Sessions Judge, Pune, by its order dated 02.11.2018 passed on Exhibit – 16 in Special (ACB) Case No.31 of 2018 (page No.431 to 439 of the paper book).

6. Applicant (Accused No.3) was arrested on 03.12.2021. Bail Application at Exhibit-50 in Special Case No.31 of 2018 filed by the Applicant was dismissed by the learned Special Judge Pune by order dated 14.09.2023.

7. Mr. Satyavrat Joshi, learned Advocate appearing on behalf of the Applicant, submits that the Applicant's alleged involvement in the present offence is reflected in the charge-sheet, more particularly at page No. 511. He submits that the Applicant is alleged to have prepared forged/fabricated documents, facilitated the sanction of loans through

the Accused No.1 and received the sanctioned/disbursed amounts into his account. He submits that the Applicant has one prior criminal antecedent, being a conviction in Special (ACB) Case No. 53 of 2019, however he submits that the sentence imposed upon the Applicant in the said Special (ACB) Case No. 53 of 2019 has been suspended by this Court vide order dated 19.10.2022 passed in Interim Application No. 3468 of 2022, copy of the same is taken on record and marked as Exhibit "X" for identification.

8. Mr. S. Joshi, submits that the involvement of the Applicant in the crime is somewhat similar to the role of Accused No.2. He submits that the Bank Manager against whom, the allegations are of accepting false documents and sanctioning such amount is on bail.

9. Mr. S. Joshi, submits that Applicant is in jail from 03.12.2021, however till date, charge is not framed in Special (ACB) Case No. 53 of 2019. He submits that the records of the learned Trial Court as also the Jail Authorities, would indicate that the Applicant was not produced before the Court, till the matter was taken up by this Court. He submits that though the Applicant was produced on 11.07.2025, even on the said date charge was not framed. He further seeks bail on the ground of parity, contending that the Accused No.1 and Accused No.2 being granted bail. He relies on the following decisions in support of his contention:

- a) Manish Sisodia Vs. Directorate of Enforcement¹
- b) Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Anr.²
- c) Indrani Pratim Mukerjea Vs. Central Bureau of

1 2024 SCC OnLine Sc 1920

2 2024 SCC OnLine SC 1693

Investigation and Anr.³

10. Ms. Anamika Malhotra, learned APP for the State, submits that the Applicant is involved in an economic offence. She points out that one of the charges invoked is under Section 409 of the Indian Penal Code, which carries a maximum punishment of life imprisonment. Relying on the said provision, she submits that the Applicant, having procured loan amounts by submitting forged documents in the name of various firms, is liable to be treated as a "merchant" under Section 409 of IPC. She submits that since the Applicant, in collusion with the Accused No.1, is alleged to have facilitated nearly 50 loan transactions, he is required to be regarded as an "agent" of the Accused No.1 in terms of Section 409 of IPC. She relies upon entries in the bank accounts of the Applicant and his firms to contend that a sum exceeding ₹3 crores was credited in the said accounts. She submits that the Applicant has three criminal antecedents and was absconding prior to his arrest on 03.12.2021. She further submits that the maximum punishment prescribed under Section 409 of IPC being life imprisonment, Applicant is not entitled to raise a plea of prolonged incarceration. She submits that although the sentence imposed on the Applicant in Special (ACB) Case No. 53 of 2019 has been suspended by this Court, the parameters for granting bail post-conviction differ significantly from those applicable at the pre-trial stage, as in the present case. With regard to the plea of parity, she submits that the Accused No.1 was granted default bail, whereas Accused No.2 was released on medical grounds and upon Accused

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No.2 making certain deposits, as such parity would not apply.

11. I have perused the record with the able assistance of learned Advocates for the parties.

12. Applicant being arrested on 03.12.2021 and he being in jail since then is not in dispute. Another fact which is not in dispute is that charge in Special (ACB) Case No.31 of 2018, is till date not framed.

13. Mr. Satyavrat Joshi, learned Advocate for the Applicant in support of his ground of right of the Applicant to speedy trial being denied, on 01.07.2025 raised an issue of the Applicant not being produced before the learned Trial Court on several occasions. This Court therefore made the following order:

“1. Heard Mr. Satyavrat Joshi, learned Advocate for the Applicant and Ms. Anamika Malhotra, learned A.P.P. for the State/Respondent.

2. Mr. Satyavrat Joshi, learned Advocate for the Applicant submits that the Applicant amongst other grounds, is pressing the ground of long incarceration and denial of speedy trial.

3. In response to the said ground, Ms. Anamika Malhotra, learned A.P.P. for the State/Respondent submits that the fault lies on the Applicant for delaying the trial.

4. Mr. Satyavrat Joshi, learned Advocate tendered photo-state copies of the entire roznama to indicate that the Applicant/Accused was not produced before the learned Trial Court on several occasions, which is one of the grounds for delaying the trial.

5. Ms. Anamika Malhotra, learned A.P.P. sought time to take instructions, as such the matter was passed over post lunch.

6. Matter was taken up post lunch, Jailor of Yerwada Jail, Pune is present in the Court. There appears to be some communication issues between the Jail Authorities

and the Public Prosecutor of the learned Trial Court.

7. In view of the above, Ms. Anamika Malhotra, learned A.P.P. seeks time till Monday to take instructions and to make a statement with reference to the reason for non-production of the Applicant/Accused before the learned Trial Court.

8. At the request of Ms. Anamika Malhotra, learned A.P.P. to enable her to place the reasons for not producing the Applicant/Accused before the learned Trial Court on the dates fixed for hearing, more particularly, in view of the ground raised by Mr. Satyavrat Joshi, learned Advocate, list the matter on 7th July 2025.”

14. On 07.07.2025, this Court has passed the following order:

“1. By order dated 01.07.2025, the Respondent was called upon to place on record the reasons for not producing the Applicant/Accused before the learned Trial Court on dates fixed for hearing.

2. Ms. Veera Shinde, learned APP for the State, has tendered a written letter dated 06.07.2025 of Superintendent Yerwada Central Prison, Pune along with a notice dated 26.06.2025 issued by the District Judge-7 and Additional Sessions Judge, Pune. Both are taken on record and marked as “X” colly for Identification.

3. At the request of the Ms. Veera Shinde, learned APP for the State, place the matter on 10th July, 2025.”

15. Along with the document at X colly, the learned A.P.P. placed a copy of the notice dated 11.07.2025, issued by the learned District Judge-7 and Additional Sessions Judge, Pune, to the Superintendent of Yerwada Jail, directing production of the Applicant before the Court on 11.07.2025. Mr. S. Joshi, submits that this notice was issued in view of the observations of this Court in its order dated 01.07.2025.

16. Letter dated 06.07.2025 of the Superintendent Yerwada Central Prison Pune reads as follows:

"महोदय,

उपरोक्त संदर्भाकीत विषयान्वये सविनय सादर करण्यात येते की, शिक्षा बंदी क्र.सी-18885 राहुल दामोदर घुले यास स्पेशल केस(एसीबी) 53/2019 सी.बी.आय. गु.र.नं. आरसी/पुणे 2016/0001, स्पेशल केस क्र. 53/2019 कलम 120 ब,420,468,471 भांदवी भ्रष्टाचार प्रतिबंधक कायदा 1988 अन्वये कलम 13(1)(ड) सह 13(2) मध्ये दिनांक 28/03/2022 रोजी एकत्रीत 05 वर्षे शिक्षा व दंड रु.20000/- न दिल्यास 03 वर्षे 06 महिने शिक्षा सुनावली आहे. सदर बंदी सदरची शिक्षा या कारागृहात भोगत आहे.

शिक्षा बंदी क्र.सी-18885 राहुल दामोदर घुले याचेवर विश्रांतवाडी पो.स्टे. गु.र.नं. 93/2015, स्पेशल केस क्र.31/2018 कलम 409,420,465,467,468,471,472,201,34 भा.दं.वि. व ला.लू.प्र.का.क. 13(2) आर डब्ल्यू 13(1) (सी)(डी) ही केस या कारागृहाच्या अभिलेखावर प्रलंबित आहे. सदर नमुद प्रलंबित केस मध्ये मा. सत्र न्यायाधीश, पुणे यांचे दिनांक 25/11/2021 ते 26/06/2025 च्या रोजनाम्यानुसार सदर केस मध्ये बंदयास मा. न्यायालयात हजर करणे करीता किंवा व्ही. सी. वर हजर करणे करीता प्रोडक्शन वॉरंट किंवा कोणतेही आदेश अथवा व्ही. सी. व्दारे हजर करण्याचे आदेश नसल्याने बंदयास आतापर्यंत मा न्यायालयात हजर केलेले नाही. तसेच बंदयाने देखील कधीही इतर प्रलंबित केस मध्ये न्यायालयात हजर करणेबाबत वरिष्ठ अधीकाऱ्याकडे विनंती / तक्रार केलेलो नाही. तसेच सन्मा. न्यायालयाकडून व्ही.सी. व्दारे बंदयांना न्यायालयात हजर करणेकरीता कारागृहास व्ही. सी. लिंक पाठवून दुरध्वनीव्दारे बंदयांची नावे कळविण्यात येतात. तथापी सन 2022 पासून सदर बंदयास व्ही. सी. व्दारे हजर करणे करीता ई- मेल किंवा दुरध्वनीव्दारे या कार्यालयास

आदेश प्राप्त झालेले नाहीत.

मा. जिल्हा व सत्र न्यायालय पुणे यांचे मिटींग मध्ये कारागृह अधीक्षक यांनी प्रत्यक्ष भेटुन कोर्ट प्रोडक्शन करितालिक बंदयाना जास्तीत जास्त व्ही. सी. वर हजर करणेबाबत विनंती केली आहे. त्यानुसार पुणे जिल्ह्यातील सर्व न्यायालयास व्ही. सी. व्दारे जास्तीत जास्त बंदयांना हजर करण्याचे आदेश संबंधीत न्यायालयांना दिले आहेत. त्यानुसार जास्तीत जास्त बंदयांना संबंधीत न्यायालय व्ही. सी. ची लिंक देऊन व्ही.सी. व्दारे हजर करीत आहेत. शिक्षा बंदी क्र.सी-18885 राहुल दामोदर घुले यास व्ही. सी. व्दारे हजर करणे करीता आदेश प्राप्त झाले नसल्याने व्ही. सी. व्दारे हजर ठेवता आले नाही.

शिक्षा बंदी क्र. सो- 18885 राहुल दामोदर घुले यास मा. न्यायालयात हजर करणेबाबत मा. न्यायालयात समक्ष भेटुन बंदयास न्यायालयात हजर करणेबाबत विनंती केली असता शिक्षा बंदी क्र. सी-18885 राहुल दामोदर घुले यास दिनांक 11/07/2025 रोजी मा. जिल्हा न्यायाधीश -7 आणि अति. सत्र न्यायाधीश, पुणे येथे हजर करणे बाबतचे प्रोडक्शन वॉरंट दिनांक 02/07/2025 रोजी या कार्यालयास प्राप्त झाले आहे, त्यानुसार सदर बंदयास दिनांक 11/07/2025 रोजी मा. जिल्हा न्यायाधीश -7 आणि अति. सत्र न्यायाधीश, पुणे यांचे न्यायालयात हजर करणेबाबत तजवीज ठेवण्यात आली आहे.

अहवाल माहितीस्तव सविनय सादर.

आपला विश्वासु

(एस. एन. ढमाळ)

अधीक्षक

येरवडा मध्यवर्ती कारागृह, पुणे-६"

17. Mr. S. Joshi submits though the Special (ACB) Case No.31 of

2018 was listed before the Trial Court on 11.07.2025, charge was not framed. Ms. Anamika Malhotra does not dispute the same.

18. The Hon'ble Supreme Court in the case of Siddhant @ Sidharth Balu Taktode Vs. The State of Maharashtra and Anr.⁴ in paragraph Nos. 15, 16 and 17 of its order dated 18.12.2024, has observed as under:

“15. It is pertinent to mention that during the hearing of the present appeal, as already discussed above, a sorry state of affairs is being depicted. The trial is being prolonged on the ground that the appellant is not produced before the Trial Judge either physically or virtually. We are informed that this is not a solitary case but in many cases such a difficulty arises.

16. We, therefore, direct the Registrar General of the High Court of Judicature at Bombay, Secretary, Home, State of Maharashtra and Secretary, Law and Justice, State of Maharashtra to sit together and evolve a mechanism to ensure that the accused are produced before the Trial Judge either physically or virtually on every date and the trial is not permitted to be prolonged on the ground of non-production of the accused persons.

17. A copy of this order be forwarded to the Registrar General of the High Court of Judicature at Bombay, Secretary, Home, State of Maharashtra and Secretary, Law and Justice, State of Maharashtra forthwith for necessary action.”

19. Mr. S. Joshi submits that there were several hearing in Special (ACB) Case No.31 of 2018 from 18.12.2024 till 01.07.2025. Ms. Anamika Malhotra was called upon to furnish the dates of production of the Applicant before the Trial Court or through Video Conference facility, from 18.12.2024 till 01.07.2025, she on instructions, submitted that the Applicant was produced before the Court on 11.07.2025. Said fact gives an

4 2024 SCC OnLine SC 3798

impression that despite the observations made by the Hon'ble Supreme Court in the case Siddhant @ Sidharth Balu Taktode (supra), the situation has not changed.

20. Speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of "reasonable, fair and just" procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.

21. Hon'ble Supreme Court in the case of Manish Sisodia (supra), in paragraph No.49 has observed as under:

"49. We find that, on account of a long period of incarceration running for around 17 months and the trial even not having been commenced, the appellant has been deprived of his right to speedy trial."

22. Hon'ble Supreme Court in the case of and Javed Gulam Nabi Shaikh (supra) in paragraph Nos.16, 17 and 18 has observed as follows:

"16. Criminals are not born but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

17. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

18. We may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be."

23. In the case of Sangram Sadashiv Suryavanshi Vs. The State of Maharashtra, the Hon'ble Supreme Court has made the following observations:

"Before we part with this order, every day we notice that in several orders passed by different High Courts while rejecting the bail applications, in a routine manner, the High Courts are fixing a time-bound schedule for the conclusion of the trials. Such directions adversely affect the functioning of the Trial Courts as in many Trial Courts, there may be older cases of the same category pending. Every court has criminal cases pending which require expeditious disposal for several reasons, such as the requirement of the penal statutes, long incarceration, age of the accused, etc. Only because someone files a case in our Constitutional Courts, he cannot get out of turn hearing. Perhaps after rejecting the prayer for bail, the Courts want to give some satisfaction to the accused by fixing a time-bound schedule for trial. Such orders are difficult to implement. Such orders give a false hope to the litigants. If in a given case, in law and on facts, an accused is entitled to bail on the ground of long incarceration without the trial making any progress, the Court must grant bail. Option of expediting trial is not the solution."

24. Applicant is incarcerated since 03.12.2021. Till date charge is not framed. Mr. S. Joshi, submits that there is no possibility of the trial commencing in the near future much less such trial concluding. Continuation of the Applicant's detention, without trial will amount to infringement of Applicant's right under Article 21 of the Constitution of speedy trial. Applicant cannot be continued to be incarcerated as an under trial, indefinitely. Accused Nos.1 and 2 are released on bail. In the peculiar fact of the case and on the ground of long incarceration that this Court is constrained to consider the Application for bail. In view of the same the other contentions of the parties are not dealt with.

25. In view of the above, the present Bail Application is allowed, on

the following conditions:

- a) Applicant is directed to be released on bail in connection with C. R. No.93 of 2015 registered with Vishrantwadi Police Station, Pune on his furnishing PR bond in the sum of Rs.1,00,000/- with one or two sureties in the like amount to the satisfaction of Special Judge CBI (ACB) Pune.
- b) Applicant shall appear before the Investigation Officer Vishrantwadi Police Station on 5th and 16th day of every month from 10.00 am to 2.00 pm.
- c) Applicant shall attend and regularly appear before the Special Judge CBI (ACB) Pune in Special Case No.31 of 2018 on each date of hearing, unless specifically exempted by the Court.
- d) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade him from disclosing the facts to the Court or any police officer and shall not tamper with evidence.
- e) Applicant upon his release, within 3 days shall furnish to the Investigation Officer, Vishrantwadi Police Station, Pune, his residential address with proof and the contact number and to keep the Investigation Officer intimated about the change in the same from time to time.
- f) Passport if any to be surrendered before the Investigation Officer Vishrantwadi Police Station, Pune within three days from the release of the Applicant from jail.
- g) Applicant shall not leave the State of Maharashtra without prior permission from the Special Judge CBI (ACB) Pune.

26. The Bail Application No.1112 of 2024 is disposed off.

(ASHWIN D. BHOBE. J.)