

Shabnoor

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

BAIL APPLICATION NO.1457 OF 2024

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Abhishek Jatinkumar Barot

... Applicant

V/s.

State of Maharashtra

... Respondent

Mr. Ashok Mundargi a/w Mr. Sankalp A. Sharma with
Varun Thokal with Vidhi Rathi i/b Abhijeet Badar, for
the applicant.

Mr. Sagar R. Agarkar, APP for the State – respondent.

Mr. Jagdish More, PSI Andheri Police Station.

CORAM : AMIT BORKAR, J.

DATED : JUNE 13, 2025

P.C.:

1. This is the second bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. The earlier bail application preferred by the applicant was rejected on merits by the Co-ordinate Bench of this Court by order dated 29th March 2023.

2. The applicant submits that the present application is filed on account of a change in circumstances. According to the applicant, since the rejection of the earlier bail application, there has been no progress in the trial. It is submitted that even the charges have not yet been framed. The charge-sheet shows a list of 40 prosecution witnesses. As per the prosecution's case, it is alleged that the wife

of the first informant was in an illicit relationship with accused No.2, and in furtherance of that, the accused persons hatched a criminal conspiracy to cause the death of the first informant. The informant was assaulted with a knife and suffered injuries on vital parts of the body. On consideration of the material on record, the earlier application was rejected. However, the present application is based on subsequent developments.

3. Learned senior counsel appearing for the applicant submits that after the rejection of the bail application on 29th March 2023, till date, there has been no substantial progress in the trial. Even charges have not been framed. It is further submitted that with the passage of time, the likelihood of early commencement or conclusion of trial appears remote. Learned counsel has relied upon the judgment of the Hon'ble Supreme Court in *Satender Kumar Antil v. Central Bureau of Investigation*, reported in (2022) 10 SCC 51, and *Union of India v. K.A. Najeeb*, AIR 2021 SC 712, to contend that delay in trial adversely affects the fundamental right guaranteed under Article 21 of the Constitution of India. It is submitted that the applicant is in custody for a considerable period and his continued incarceration, in the absence of progress in the trial, amounts to pre-trial punishment. Therefore, he is entitled to be released on bail.

4. On the other hand, learned APP has opposed the present application. It is submitted that the allegations against the applicant are grave and serious in nature. It is submitted that the case involves a conspiracy to commit murder and the assault was carried out with a deadly weapon, namely, a knife, causing injuries

on vital parts of the informant's body. The learned APP submits that though the charge-sheet shows 40 witnesses, it is not necessary that all of them will be examined. The actual list of witnesses may be curtailed during trial. Therefore, the delay in trial by itself cannot be a ground to release the applicant on bail in such a serious offence. It is further submitted that the nature of the crime and its impact on the victim and society must also be taken into consideration while deciding the bail.

5. I have considered the rival submissions advanced by the learned Senior Advocate for the applicant and the learned APP for the State. I have also perused the charge-sheet, the earlier bail order dated 29th March 2023, and the documents placed on record.

6. It is an admitted position that the earlier bail application was rejected on merits. The present application is based on a change in circumstances, namely the prolonged incarceration of the applicant and the fact that there is no progress in the trial. It is pointed out that although the charge-sheet is filed long back, till date, charges have not been framed, and the trial has not commenced. The list of prosecution witnesses consists of 40 names.

7. The Supreme Court in *Satender Kumar Antil* has held that the right to speedy trial is a facet of Article 21 of the Constitution. Similarly, in *K.A. Najeeb*, it has been held that in cases where the trial is not likely to commence or conclude in the near future, the prolonged custody of the accused may justify grant of bail, even in serious offences, subject to reasonable restrictions.

8. In the present case, the applicant is in custody for a considerable period and, as submitted, there is no indication that the trial would commence immediately. It is also not the case of the prosecution that the delay is attributable to the applicant. Though the allegations against the applicant are grave, the right to liberty under Article 21 cannot be defeated solely on the ground of seriousness of the offence, particularly when there is no likelihood of early conclusion of trial.

9. Hence, in view of the peculiar facts of the case, especially the continued incarceration of the applicant without progress in the trial, I am of the view that the applicant deserves to be released on bail, subject to stringent conditions to ensure his presence during trial and to prevent tampering with evidence or influencing witnesses.

10. In view of the above discussion and legal position, the following order is passed:

(a) The Bail Application is allowed.

(b) The applicant, Abhishek Jatinkumar Barot, shall be released on bail in connection with C.R. No. 77 of 2022 registered with Andheri Police Station, upon furnishing a Personal Bond of ₹50,000/- (Rupees Fifty Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court.

(c) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.

(d) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(e) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(f) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(g) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

11. The Bail Application is accordingly disposed of.

(AMIT BORKAR, J.)