

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1945 of 2024

Shamshad Haiderali Ansari	.. Applicant
Versus	
State Of Maharashtra	.. Respondent

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- Mr. Ganesh Gole a/w Mr. Bhavin Jain i/b Mr. Rahul Shelke, Advocates for Applicant.
 - Ms. Rajeshree V. Newton, APP for State.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 20, 2025

P. C.:

- 1.** Heard Mr. Gole, learned Advocate for Applicant and Ms. Newton, learned APP for State. Perused the record.
- 2.** Applicant - accused has filed the present Application for regular bail in connection with Crime No. I-149 of 2017 registered with Bhoiwada Police Station, Bhiwandi, Dist. Thane for the offences punishable under Sections 302, 201, 120-B r/w 34 of Indian Penal Code, 1860. Applicant herein is arrayed as Accused No.5 before the Trial Court. He is incarcerated since 07.10.2017 until today.
- 3.** According to prosecution case and the Complaint appended at page No. 80 of the Application/chargesheet it is seen that he has described the incident in unnumbered paragraph No.5. He has categorically identified Accused No.1 and Accused No.2 being armed

with a knife (Chaku) and Dagger (Sura). When he heard the cries of victim and went inside the power-loom which is the incidence spot, he spotted persons namely Accused Nos. 4, 5 and 6 who were standing nearby. The Complainant has stated that he attempted and tried to help the victim but was prevented by Accused No.2 from doing so. He has identified Accused Nos. 1 and 2 not only from their appearances but also from the clothes that they were wearing and has also stated in complaint that he knew them.

4. Insofar as the other three persons who were with the Accused Nos. 1 and 2, he has identified them as the other three persons. Admittedly, Applicant before me is Accused No.5 who was one of the three persons. Recovery of the weapons has already been effected from Accused No.2. There is no other role apart from standing near the incidence spot attributable to the Applicant before me as to whether he uttered any words or was seen participating in the crime in any manner. To that extent therefore the role of the applicant is *prima facie* limited.

5. Applicant is in incarcerated since long. As on date he has already suffered imprisonment for 7 years 3 months and 13 days. In the decisions of the Supreme Court, various other High Courts and this Court in the case of (i) ***Indrani Mukerjea Vs. CBI***¹, (ii) ***Raghvendr***

1 SLP (Crl.) No. 1627 of 2022 decided on 18.05.2022

*Singh VS. State of NCT of Delhi*² (iii) *Chintan Vidyasagar Upadhyay Vs. The State of Maharashtra*³ (iv) *Naresh Harischandra Mali Vs. The State of Maharashtra, at the instance of Revdanda Police Station.*⁴ , (v) *Anvinash Ashok Torane Vs. State of Maharashtra*⁵, (vi) *Roland Victor Monterio Vs. State of Maharashtra*⁶ (vii) *Akshay Anil Walode Vs. The State of Maharashtra*⁷ and (viii) *Manoj Namdev Gajakosh Vs. State of Maharashtra*⁸ Courts hereinabove stated have considered the period of long incarceration undergone by the Accused as substantial, Courts have considered the stage of trial and also if the trial had not yet commenced and the ground of parity if any and granted bail to the Accused in the facts of the respective cases.

6. Such is one of the case before me. Accused Nos. 4 and 6 have already been enlarged on bail by the Trial Court. There is no foreseeable certainty that trial will end. Applicant has been incarcerated since long. The Applicant before me undoubtedly deserves parity along with them on the touchstone of right to speedy trial and liberty, both being enshrined in Article 21 of the Constitution of India.

2 2025 SCC OnLine Del 21

3 SLP (Crl.) No. 2543 of 2021 decided on 17.09.2021

4 Bail Application No. 3858 of 2022 decided on 27.07.2023

5 Bail Application No. 3535 of 2023 decided on 08.01.2024

6 Bail Application NO. 1981 of 2023 decided on 11.01.2024

7 Bail Application NO. 40 of 2024 decided on 22.02.2024

8 Bail Application No. 1012 of 2022 decided on 02.08.2022

7. In view of the above, following order is passed:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer of concerned Police Station once every month on the third Saturday between 10:00 a.m. to 12:00 p.m. for three months and thereafter or as and when called;
- (iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court; he shall deposit his passport with the Trial Court within one week of his release on bail from prison;
- (v) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;

(vi) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;

(vii) Any infraction of the above conditions shall entail cancellation of this order.

8. It is clarified that the observations in this order are limited for the purpose of granting Bail only and I have not made any observations on the merits of the case.

9. In view of the above directions, Bail Application stands allowed and disposed.