

Nikita

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

BAIL APPLICATION NO.3397 OF 2024

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Shaikh Firoz Shaikh Habib

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Shahed Ali Ansari for the Applicant.

Mr. P. H. Gaikwad, APP for the State.

Mr. Jitendra Pansare, APSI, Shikrapur Police Station
Pune Rural.

CORAM : ASHWIN D. BHOBE, J.

DATED : 13th JUNE, 2025

P.C.:

1. Heard Mr. Shahed Ansari, learned Advocate for the Applicant. Mr. P. H. Gaikwad, learned APP for the State.
2. By the present application under Section 439 of the Code of Criminal Procedure, 1973, Applicant is seeking bail in connection with C. R. No.706 of 2020 registered with Shikrapur Police Station, for the offences punishable under Sections 302 and 201 of IPC. Said crime is registered as Sessions Case No.173 of 2021 and is pending before the Additional Sessions Judge, Pune.
3. There are two accused in the said crime. Applicant is Accused No.2 . Mr. Faiyub Pathan is Accused No.1.
4. Applicant as well as the Accused No.1 were arrested on

15.11.2020. Mr. Faiyub Pathan (Accused no.1) was released on bail by the Additional Sessions Judge, vide on 17.07.2021 passed in Sessions Case No.173 of 2021.

5. Applicant filed Bail Application at Exhibit-16 in Sessions Case No.173 of 2021, which was rejected by the Additional Sessions Judge on 13.11.2021.

6. Applicant approached this Court by filing Bail Application No.976 of 2022. This Court disposed off the said Bail Application by passing the following order on 21.03.2023.

“ . This is an application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of bail.

2. Considering the fact that the applicant is in jail for more than 2½ years, the trial court shall endeavour to conclude the trial as early as possible. If the trial is not concluded within a period of 6 month from the date of receipt of copy of this order, the application is at liberty to file a fresh bail application before the trial Court. The application is disposed of in aforesaid terms.”

7. Learned Advocate for the Applicant submits that the period of six months as recorded in the order dated 21.03.2023 expired on 20.09.2023. He submits that the Applicant filed Bail Application at Exhibit-21 before the Additional Sessions Judge on 02.01.2024, in terms of the liberty granted by this Court. He submits that by order dated 05.08.2024, the learned Additional Sessions Judge, Pune has rejected the bail application. He submits that till date charge is not framed in the Sessions Case No.173 of 2021. He submits that the Mr. Faiyub Pathan (Accused no.1) is enlarged on bail by order dated 17.07.2021. He submits that the Applicant is in jail since 15.11.2020 i.e. more than four and half years. He submits that the witnesses, listed by the prosecution are 16 in

number, he therefore, submits that there is no scope for conclusion of trial in the near future. He submits that he has instructions to press the present bail application only on the ground of the Applicant's right to speedy trial.

8. Mr. Shahed Ansari, learned Advocate for the Applicant has relied on the orders passed by this Court in case of Vikas Chandrakant Patil Vs. The State of Maharashtra¹ and in the case of Niklesh Prakash Patil Vs. The State of Maharashtra², in support of his ground of speedy trial.

9. Mr. P. H. Gaikwad, learned APP for the State submits that the offences refereed in the crime are serious. He submits that the Applicant has murdered his wife. He submits that the recoveries at the instance of the Applicant have been made. He submits that upon investigation being completed, charge-sheet has been filed before the Sessions Court. He fairly submits that till date charge is not framed in the matter.

10. Considering that the Applicant is incarcerated since November, 2020 and by taking note of the fact that till date charge is not framed in Sessions Case No.173 of 2021, the Applicant is justified in pressing into service his right to be enlarged on bail, as he cannot continue to be incarcerated as an under trial prisoner, indefinitely. It appears that the trial in the present crime is likely to prolong.

11. In view of the above, the present application is allowed and

1 Bail Application No.1963 of 2025, decided on 09.05.2025

2 Bail Application NO.1208 of 2025, decided on 08.05.2025

the Applicant is released on subject to the following conditions:

- a) Applicant is directed to be released on bail in connection with C. R. No.706 of 2020 registered with Shikrapur Police Station, for the offences punishable under Sections 302, 201, of IPC, on his furnishing PR bond in the sum of Rs.25,000/- with one or two local sureties in the like amount to the satisfaction of Additional Sessions Judge, Pune.
- b) Applicant shall remain present before the Shikrapur Police Station on 5th day of every month from 10.00 am to 12.00 pm.
- c) Applicant shall not influence/ threaten any witnesses or tamper with the evidence.
- d) The Applicant shall appear before the Additional Sessions Judge in Sessions Case No.173 of 2021, as and when the proceedings are listed before the Court, unless exempted.

12. The Bail Application is disposed off.

(ASHWIN D. BHOBE. J.)