

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4523 OF 2024

Bhikaji Balkrushna Pawar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Sushan Nirmal Mhatre (Appointed through Legal-aid), learned Advocate for the Applicant.

Mr. Tanveer G. Khan, learned A.P.P. for the State/Respondent.

PSI Mr. Sandip S. Khade attached to Malvan Police Station is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 1st JULY 2025.

P.C. :

1. Heard Mr. Sushan Nirmal Mhatre, learned Advocate for the Applicant and Mr. Tanveer Khan, learned A.P.P. for the State/Respondent.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 ("**BNSS**" for short), the Applicant is before this Court seeking regular bail in connection with Crime No. 28 of 2021 registered with Malvan Police Station, Sindhudurg for the offences punishable under Sections 302, 307, 324, 323, 504 and 506 read with 34 of the Indian Penal Code Act, 1860 ("IPC" for short).

3. Mr. Sushan Mhatre, learned Advocate for the Applicant

submits that the abovesaid crime is registered as Sessions Case No. 34 of 2021, which is pending on the file of Sessions Judge, Sindhudurg-Oros.

4. On 4th March 2025, this Court made the following order :-

“1. Learned A.P.P. submits that the trial has commenced and at this stage the present Application may not be entertained.

2. On the other hand the learned Counsel for the Applicant submits that the Applicant is in jail for more than four years and the prosecution has examined only two witnesses.

3. Considering the facts and circumstances, list the Application on 10th June 2025. If the trial is not concluded by next date, this Court will be constrained to release the Applicant on bail.”

5. Today, when the matter was called out, Mr. Sushan Mhatre, learned Advocate for the Applicant states that from 4th March 2025, there has been no much progress in the trial of Sessions Case No. 34 of 2021. He submits that only one witness, that too a panch witness is examined in the said case. He submits that the list of prosecution witnesses refers to 34 witnesses, some of which are residents of North East. He submits that this Court by order dated 4th March 2025 had after considering the slow progress in the trial, made the observations in Paragraph No. 3. He submits that considering that no progress is made, the Applicant is entitled to the benefit of observations, as made by this Court in Paragraph No. 3 of the order dated 4th March 2025.

6. Mr. Tanveer Khan, learned A.P.P. for the State/Respondent submits that from 4th March 2025 till date only one witness, i.e., the panch witness has been examined. He submits that though 34 witnesses are enlisted in the list of prosecution witnesses, all the witnesses may not be examined.

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

8. Perusal of the record indicates that Crime No. 28 of 2021 was registered on 20th February 2021. Applicant (Accused No. 2) was arrested on 21st February 2021. As stated by Mr. Sushan Mhatre, learned Advocate, the Applicant is in jail for a period of 4 years and 4 months, except for the Covid Bail granted to him. The trial is proceeding at a slow pace, as reported by Mr. Sushan Mhatre, learned Advocate appearing on behalf of the Applicant. This Court taking note of slow progress of trial, had made the observations in the order dated 4th March 2025.

9. In view of the long incarceration, considering the slow progress in the trial and the observations made by this Court in Paragraph No. 3 of the order dated 4th March 2025, the Applicant is entitled to bail.

10. 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 Crime No. 28 of 2021 registered with Malvan Police Station, Sindhudurg for the offences

punishable under Sections 302, 307, 324, 323, 504 and 506 read with 34 of the IPC on executing P.R. Bond in the sum of Rs. 20,000/- (Rupees Twenty Thousand Only) with one or two sureties in the like amount, to the satisfaction of the Sessions Judge, Sindhudurg-Oros.

- b. Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence.
- c. Applicant shall co-operate in the conduct of the trial and shall regularly attend the hearing of Sessions Case No. 34 of 2021, pending on the file of Sessions Judge, Sindhudurg-Oros, on each and every date, unless exempted from appearance.
- d. Applicant upon his release, within a period of three days from his release, shall furnish his cell phone number and residential address with proof to the Investigating Officer, Malvan Police Station, Sindhudurg and shall keep the same updated, in case of any change thereto.

11. Criminal Bail Application No. 4523 of 2024 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]