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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL BAIL APPLICATION NO. 5156 OF 2024**

Faiyaj Khalid Shaikh

... Applicant

**Vs.**

The State of Maharashtra

... Respondent

\*\*\*\*

Mr. Vikas Kolekar a/w Ms. Monika Dashmika & Mr. Kunal Shirgire,  
Advocate for the Applicant.

Ms. Anamika Malhotra, APP for Respondent/State.

Mr. Madhukar D. Shirke-PSI, Navi Mumbai.

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**CORAM : ASHWIN D. BHOBE, J.**

**DATE : 14<sup>th</sup> AUGUST, 2025.**

**P.C. :**

**1.** Heard Mr. Vikas Kolekar, learned Advocate for the Applicant and Ms. Anamika Malhotra, learned APP for the State.

**2.** By the present Application, Applicant is seeking bail in Crime No. 252 of 2018 registered with Kharghar Police Station for the offences punishable under Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999. Said crime is registered as Special MCOCA Case No.110 of 2020 and is pending before the Court of the Additional Sessions Judge, Panvel.

**3.** There are 4 Accused in the present crime. Applicant is Accused No.1 in the said crime.

4. Mr. Vikas Kolekar, learned Advocate for the Applicant, submits that the Applicant is seeking bail on the sole ground of Applicant's long incarceration and thereby denial of the Applicant's right to speedy trial. He submits that the Applicant was arrested on 30<sup>th</sup> October, 2018 and since then he is in jail. He submits that charge is framed on 28<sup>th</sup> May, 2024. He submits that apart from framing of charge, not a single witness has been examined. He submits that there is no possibility of conclusion of the trial of Sessions Case No.41 of 2022 in the near future. He therefore seeks bail.

5. Ms. Anamika Malhotra, learned APP for the State, does not dispute that the Applicant was arrested on 30<sup>th</sup> October, 2018 and charge in Sessions Case No.41 of 2022 being framed only on 28<sup>th</sup> May, 2024. She submits that the prosecution has listed 36 witnesses in the list of witnesses.

6. In the case of *Siddhant @ Sidharth Balu Taktode v/s. The State of Maharashtra and Another*<sup>1</sup>, the Hon'ble Supreme Court, in paragraph no. 9 has observed as under :-

*"9. However, it is to be noted that this Court in the case of Manish Sisodia v. Directorate of Enforcement (2024 SCC OnLine SC 1920 : 2024 INSC 595), while considering the twin conditions, as applicable under the provisions of Prevention of Money Laundering Act, 2002 has held that prolonged incarceration without the accused being made to face the trial would result in forcing him to face the sentence without undergoing the trial. In the said case of Manish Sisodia (supra), the*

*Court has also held that the right to speedy trial is also one of the facets of the rights flowing from Articles 19 and 21 of the Constitution of India. The said judgment of this Court in the case of Manish Sisodia (supra), has been constantly followed in various other judgments including the case of Kalvakuntla Kavitha v. Directorate of Enforcement (2024 SCC OnLine SC 2269 : 2024 INSC 632).*

7. In the case of *Rabi Prakash v/s. Tate of Odisha*<sup>2</sup>, the Hon'ble Supreme Court in paragraph no. 4 has observed as under :-

*“4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent - State has been duly heard. Thus, the 1<sup>st</sup> condition stands complied with. So far as the 2<sup>nd</sup> condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.*

*(emphasis supplied)”*

8. It is trite law that prolonged incarceration pending conclusion of trial is clearly violative of right guaranteed under Article 21 of the Constitution of India, which has been construed to right of fair as well as speedy trial. Applicant is in jail since 30<sup>th</sup> October, 2018, apart from framing of the charge, actual trial i.e.

<sup>2</sup> 2023 SCC OnLine SC 1109.

examination of witnesses (36 Prosecution witness), has not commenced. Trial which would include examination of the prosecution witnesses, recording of the statement of Accused under Section 351 of the BNSS and defence evidence if any, would certainly prolong the trial. Applicant cannot continue to be incarcerated as an under-trial, indefinitely. In the facts and circumstances of the case Applicant would be justified in pressing his right of denial of speedy trial.

**9.** Mr. Vikas Kolekar, learned Advocate for the Applicant, on instructions from the Applicant, submits that the Applicant shall not enter the jurisdiction of District Raigad, State of Maharashtra, till the conclusion of Special MCOCA Case No.110 of 2020. He submits that the Applicant would be residing in Belapur, District Thane. Statement is accepted.

**10.** On the ground of prolonged incarceration of the Applicant, this Court is constrained to enlarge the Applicant on bail. In view of the above, the Applicant is entitled to bail, on the following conditions:-

(a) Applicant be released on bail in Crime No. 252 of 2018 registered with Kharghar Police Station, upon furnishing PR. Bond in the sum of Rs. 50,000/- with one or two local sureties in the like amount to the satisfaction of the Additional Sessions Judge, Pune.

(b) Applicant shall not directly or indirectly make any

inducement, threat, or promise to the Complainant or any person acquainted with the facts of the case, as also shall not tamper with the evidence.

(c) Applicant upon release within 3 days shall furnish his residential address with proof and contact details to the Investigating Officer, Kharghar Police Station.

(d) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

(c) Applicant shall not enter the territorial jurisdiction of the Kharghar Police Station till the conclusion of the Trial in Special MCOCA Case No.110 of 2020 pending before the Additional Sessions Judge Panvel District Raigad.

(d) Applicant shall appear and report to the Investigation Officer, CBD Belapur Police Station, once in a month i.e. on the first Saturday and fourth Saturday of every month from 10.00 a.m. to 1.00 p.m., till the framing of charge.

(d) Applicant shall attend and regularly appear before the Additional Sessions Judge, Panvel in Special MCOCA Case No.110 of 2020 on each date of hearing unless exempted specifically by the Court.

**11.** Criminal Bail Application No.5156 of 2024 is allowed in the above said terms..

**(ASHWIN D. BHOBE, J.)**