

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 5304 OF 2024

Saeed Mohammed Yaar Mohammed Pathan
@ Saad Pathan

...Applicant

Versus

The State of Maharashtra

...Respondent

Ms. Swarali Joglekar, for the Applicant.

Mr. Yogesh Dabke, APP for the State – Respondent.

PSI Abhilasha Bhosale, Andheri Police Station, present.

CORAM: N. J. JAMADAR, J.

DATED : 11th MARCH, 2025

ORDER:-

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in C.R. No.515 of 2017 registered with Andheri Police Station, Mumbai, for the offences punishable under Sections 307 of the Indian Penal Code, 1860 (“the Penal Code”), has preferred this application to enlarge him on bail.

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3. In fact, this is the second application for bail. The first bail application, being BA/3617/2023, came to be disposed as withdrawn. However, since the applicant had then been in custody for almost six and half years, this Court had requested the trial court to make an endeavour to commence and

conclude the trial as expeditiously as possible and, preferably, within a period of six months from 28th May, 2024.

4. Pursuant to the aforesaid order, it appears that charge came to be framed and the prosecution has examined one witness and the second witness is in the witness box. The Court is informed that victim's evidence has been recorded.

5. The situation which thus obtains is that the applicant has been in custody for more the seven years. It is true a strong *prima facie* case is made out against the applicant. Yet the Court cannot lose sight of the long period of incarceration which the applicant has undergone. It is trite that long period of incarceration without a realistic prospect of conclusion of trial impinges upon the right of the accused to speedy trial, which is a facet of right to life guarantee under Article 21 of the Constitution of India.

6. Having regard to the period of incarceration and the slow pace of trial, I am inclined to exercise the discretion in favour of the applicant. The fact that the evidence of the victim has been recorded also rules out the possibility of giving any threat, inducement or promise to the victim. Moreover, appropriate conditions can be imposed to secure the presence of the applicant at the trial.

7. Hence the following order:

: O R D E R :

- (i) The Application stands allowed.
- (ii) The applicant be released on bail in C.R. No.515 of 2017 registered with Andheri Police Station, Mumbai, on furnishing a P.R. Bond of Rs.30,000/- with one or two sureties in the like amount.
- (iii) The applicant shall mark his presence at Andheri Police Station on the first Monday of every month between 10.00 am. to 12.00 noon, till the conclusion of the trial.
- (iv) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.
- (v) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.
- (vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (vii) By way of abundant caution, it is clarified that the

observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the Trial Court shall not be influenced by any of the observations made hereinabove.

Application stands disposed.

[N. J. JAMADAR, J.]