

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.5041 OF 2024
IN
CRIMINAL APPEAL NO.1285 OF 2024

ARJUN
VITTHAL
KUDHEKAR

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ARJUN VITTHAL
KUDHEKAR
Date: 2025.06.27
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Mohnish Satyanarayan Nayar

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Subhash Jha a/w Siddharth Jha, Sumeet Upadhyay, Ashish Saxena & Chetan Gogawale i/b Law Global, for the Applicant.

Ms. P. P. Bhosale, APP, for the Respondent-State.

Ms. Keral Mehta i/b Shraddha Sawant, for Respondent No.2.

CORAM: MADHAV J. JAMDAR, J.

DATED: 27 JUNE 2025

P.C.:

1. Heard Mr. Jha, learned Counsel for the Applicant, Ms. Bhosale, learned APP for the Respondent-State and Ms. Mehta, learned Counsel along with Ms. Sawant, learned Counsel for Respondent No.2.
2. The relief sought in the Interim Application is that the Applicant be released on bail and the sentence be suspended.
3. By the Judgment and Order dated 11th October 2024 passed by the Additional Sessions Judge, City Civil & Sessions Court, Borivali Divison, Dindoshi, Mumbai the Applicant is convicted for the offence punishable under Sections 307 of the *Indian Penal Code, 1860* registered with the Juhu Police Station in Crime No.89 of 2021 and he

has been sentenced to suffer rigorous imprisonment for 7 years and also to pay fine of Rs.25,000/- and in default of payment of fine to suffer rigorous imprisonment for 1 year.

4. Mr. Jha, learned Counsel submits that the Applicant is incarcerated since 28th February 2021. He states that therefore till date he has completed 4 years and 4 months of sentence. He therefore states that the Applicant is entitled for the benefit of Section 436A of *the Code of Criminal Procedure, 1973*. He states that there are no circumstances to deny the said benefit.

5. On the other hand, Ms. Bhosale, learned APP and Ms. Mehta, learned Counsel along with Ms. Sawant, learned Counsel strongly oppose the said request. It is their submission that the Applicant has assaulted the wife with a scissor and there are about 9 injuries on the body of the victim. Both of them submitted that if the Court is inclined to grant bail, then the stringent conditions be imposed.

6. However, this is a case where, the Applicant who has been sentenced to suffer rigorous imprisonment for 7 years has already completed substantial part of the sentence i.e. 4 years and 4 months.

7. The Supreme Court in *Hussainara Khatoon (IV) v. Home Secy, State of Bihar*¹ has held that speedy trial is one of the facets of right to life and liberty guaranteed under Article 21 of the Constitution of India. Speedy trial is an essential ingredient of “reasonable, fair and just”

¹ (1980) 1 SCC 98

procedure guaranteed by Article 21 and it is the constitutional obligation of the State to devise such a procedure as would ensure speedy trial to the Accused.

8. To safeguard fundamental rights of undertrial prisoners under Article 21 of the Constitution of India, the legislature has amended the *Code of Criminal Procedure, 1973* by introducing Section 436A which makes a provision regarding period for which the undertrial prisoner can be detained. The said principles concerning trial is also applicable to the Appeal.

9. Thus, the case is made out for grant of bail and suspension of sentence during the pendency of the Criminal Appeal.

10. Accordingly, the Applicant can be enlarged on bail by imposing conditions. In view thereof, the following order:

ORDER

- (a) The sentence of imprisonment vide Judgment and Order dated 11th October 2024 passed by the learned Additional Sessions Judge, City Civil & Sessions Court, Borivali Division, Dindoshi, Mumbai in Sessions Case No.631 of 2021 is suspended as far as the Applicant is concerned during the pendency of Criminal Appeal No.1285 of 2024 preferred by the Applicant and the Applicant is directed to be released on bail on executing

P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

- (b) The Applicant is permitted to furnish cash bail surety for a period of 4 weeks, in lieu of surety;
- (c) The Applicant shall report to the Juhu Police Station, Mumbai once in a week i.e. on Sunday between 11.00 am and 01:00 pm for a period for 6 months and thereafter once in a month i.e. on the first Sunday between 11:00 am and 01:00 pm;
- (d) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto;
- (e) The Applicant shall not contact the victim or any other witnesses in any manner.

11. Accordingly, the Interim Application is allowed in the aforesaid terms and disposed of.

[MADHAV J. JAMDAR, J.]