

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 96 OF 2025

Sachin Sonu Sathe

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Aniket U. Nikam a/w Mr. Sumit Patil, learned Advocate for the Applicant.

Mr. Amit A. Palkar, learned A.P.P. for the State/Respondent.

PSI Mr. Y. R. Bansode attached to Wakad Police Station, Pune is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 14th AUGUST 2025.

P.C. :

1. Heard Mr. Aniket Nikam, learned Advocate for the Applicant and Mr. Amit Palkar, 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. 483 of 2020 registered with Wakad Police Station, District-Pune, for the offences punishable under Section 302 read with 34 of the Indian Penal Code, 1860 (“**IPC**” for short), Section 4(25) of the Indian Arms Act, 1959 and Section 37 read with 135 of the Maharashtra Police Act, 1951.

3. Mr. Aniket Nikam, learned Advocate for the Applicant

submits that Crime No. 483 of 2020 is registered as Special MCOCA Case No. 718 of 2020 and is pending on the file of Additional Sessions Judge and Special Judge, MCOC Act, Pune.

4. There are 4 accused persons in the present crime. Applicant is Accused No. 1.

5. Applicant was arrested on 6th June 2020, since then he is in jail. Criminal Bail Application at Exhibit-14 filed by the Applicant in Special MCOCA Case No. 718 of 2020, was rejected by the learned Additional Sessions Judge and Special Judge, MCOC Act, Pune by order dated 4th December 2024.

6. Mr. Aniket Nikam, learned Advocate for the Applicant submits that the Applicant is restricting the grounds of bail on two counts : *Firstly*, on the ground of parity, by relying on the order dated 21st June 2024 passed in Criminal Bail Application No. 2229 of 2022 (page nos. 263 to 266 of the paper-book), by which co-accused Rohit Lallan Singh (Accused No. 4) is released on bail by this Court. He submits that the involvement of Applicant is similar and identical to the involvement of Accused No. 4 in the present crime. *Secondly*, on the ground Applicant's long incarceration. He submits that though the charge was framed on 19th January 2023, not a single prosecution witness has been examined till date. He submits that the prosecution has listed 42 witnesses. He submits that the trial would be delayed substantially. He submits that the Applicant has not been produced either physically or through virtual mode before the Trial Court on 70 dates of hearing. He relies on the orders of this Court in the cases of *Vikas Chandrakant*

*Patil v/s. The State of Maharashtra*¹ and *Niklesh Prakash Patil v/s. The State of Maharashtra*² in support of his contention for grant of bail on the grounds of long incarceration and denial of Applicant's right to speedy trial.

7. Mr. Amit Palkar, learned A.P.P. for the State/Respondent does not dispute the fact of Applicant being arrested on 6th June 2020 and he being in jail since then. He submits that apart from framing of the charge, trial has not proceeded in Special MCOCA Case No. 718 of 2020. He on instructions from the Investigating Officer submits that Applicant was not produced before the Court on 70 dates when the matter was fixed before the Trial Court. On merits, Mr. Amit Palkar, submits that the Applicant being the gang leader, the tripod test is required to be satisfied before considering the request for bail. He submits that the Applicant is actively involved in the present crime. He submits that the involvement of Applicant and Accused No. 4 is almost similar and identical in the present crime. He submits that prosecution has apprehension of the Applicant if released on bail will tamper with evidence. He relies on the decision of the Hon'ble Supreme Court in the case of *Gurwinder Singh v/s. State of Punjab and Another*³.

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

9. Pre-arrest detention of the Applicant is almost 5 years and 2 months, apart from framing of the charge, there being no progress in Special MCOCA Case No. 718 of 2020 and Applicant not being

1 Bail Application No. 1963 of 2025 decided on 9th May 2025.

2 Bail Application No. 1208 of 2025 decided on 8th May 2025.

3 (2024)5 Supreme Court Cases 403.

produced before the learned Trial Court on 70 dates of hearing, are the facts which are not in dispute.

10. In the case of *Siddhant @ Sidharth Balu Taktode v/s. The State of Maharashtra and Another*⁴, the Hon'ble Supreme Court, in paragraph nos. 9, 10 & 15 to 17 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).

10. The material placed on record would reveal that for a period of the last six years, out of 102 dates, the accused has not been produced before the Court either physically or through virtual mode on most of the dates. On the last date, we had put a query to the learned counsel appearing for the State as to why the charges were not framed as of date in this case. Shri Kilor fairly states that the charges have not been framed in the cases which are registered prior to the registration of the present case. We may say with anguish that this is a very sorry state of affairs. If an accused is incarcerated for a period of approximately five years without even framing of charges, leave aside the right of speedy trial being affected, it would amount to imposing sentence without trial. In our view, such a prolonged delay is also not in the

interest of the rights of the victim.

15. It is pertinent to mention that during the hearing of the present appeal, as already discussed above, a sorry state of affairs is being depicted. The trial is being prolonged on the ground that the appellant is not produced before the Trial Judge either physically or virtually. We are informed that this is not a solitary case but in many cases such a difficulty arises.

16. We, therefore, direct the Registrar General of the High Court of Judicature at Bombay, Secretary, Home, State of Maharashtra and Secretary, Law and Justice, State of Maharashtra to sit together and evolve a mechanism to ensure that the accused are produced before the Trial Judge either physically or virtually on every date and the trial is not permitted to be prolonged on the ground of non-production of the accused persons.

17. A copy of this order be forwarded to the Registrar General of the High Court of Judicature at Bombay, Secretary, Home, State of Maharashtra and Secretary, Law and Justice, State of Maharashtra forthwith for necessary action.”

11. In the case of *Rabi Prakash v/s. Tate of Odisha*⁵, 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 1st condition stands complied with. So far as the 2nd 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

⁵ 2023 SCC OnLine SC 1109.

embargo created under Section 37(1)(b)(ii) of the NDPS Act.

(emphasis supplied)

12. Co-accused (Rohit Lallan Singh), who has a similar and identical role in the crime, as submitted by Mr. Aniket Nikam, which fact is not disputed by Mr. Amit Palkar, learned A.P.P. has been released on bail by this Court on 21st June 2024 in Criminal Bail Application No. 2229 of 2022. Mr. Amit Palkar, learned A.P.P. for the State/Respondent though made an attempt to contest the facts by contending that Rohit Lallan Singh did not have antecedents whereas the Applicant herein has criminal antecedents. The Hon'ble Supreme Court in the case of *Prabhakar Tewari v/s. State of Uttar Pradesh and Another*⁶ in paragraph no. 7 has observed as follows :-

“7. On considering the submissions of the learned counsel for the parties, having regard to the circumstances of this case, in our opinion, there has been no wrong or improper exercise of discretion on the part of the High Court in granting bail to the accused. The factors outlined in Mahipal [Mahipal v. Rajesh Kumar, (2020) 2 SCC 118 : (2020) 1 SCC (Cri) 558] for testing the legality of an order granting bail are absent in the order [Vikram Singh v. State of U.P., 2019 SCC OnLine All 5566] impugned. The materials available do not justify arriving at the conclusion that the order impugned suffers from non-application of mind or the reason for granting bail is not borne out from a prima facie view of the evidence on record. The offence alleged no doubt is grave and serious and there are several criminal cases pending against the accused. These factors by themselves cannot be the basis for refusal of prayer for bail. The High Court has exercised its discretion in granting bail to the accused Vikram Singh upon considering relevant materials. No ex facie error

⁶ (2020)11 Supreme Court Cases 648.

in the order has been shown by the appellant which would establish exercise of such discretion to be improper. We accordingly sustain the order [Vikram Singh v. State of U.P., 2019 SCC OnLine All 5566] of the High Court granting bail. This appeal is dismissed.

(emphasis supplied)”

13. 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 the month of June 2020, apart from framing of the charge, actual trial i.e. examination of witnesses (42 Prosecution Witnesses), 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.

14. Mr. Aniket Nikam, learned Advocate submits that if indulgence is shown to the Applicant in the present Bail Application, then he has instructions from the Applicant to state that pending the conclusion of trial in Special MCOCA Case No. 718 of 2020, the Applicant shall not enter the territorial jurisdiction of District-Pune till conclusion of the trial, except for attending the hearing of the said case. Statement accepted.

15. On the ground of prolonged incarceration of the Applicant,

this Court is compelled to enlarge the Applicant on bail. Hence, the present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 483 of 2020 registered with Wakad Police Station, District-Pune for the offences punishable under Section 302 read with 34 of the IPC, Section 4(25) of the Indian Arms Act, 1959 and Section 37 read with 135 of the Maharashtra Police Act, 1951 on executing P.R. Bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) with one or two local sureties in the like amount to the satisfaction of the Additional Sessions Judge and Special Judge, MCOC Act, Pune.
- b. Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade such person from disclosing such facts to the Court or to any police officer.
- c. Applicant shall not tamper with the prosecution witnesses and evidence in any manner.
- 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, Wakad Police Station, District-Pune and shall keep the same updated, in case of any

change thereto.

- e. Applicant shall co-operate in the conduct of the trial of Special MCOCA Case No. 718 of 2020 and shall regularly attend the hearing of the case pending on the file of Additional Sessions Judge and Special Judge, MCOC Act, Pune, on each and every date, unless exempted from appearance.
- f. Applicant shall report/attend before the Investigating Officer, Wakad Police Station, District-Pune on first and last Saturday of every month from 10.00 a.m. to 1.00 p.m. till further orders from the Trial Court in the said case.
- g. Applicant shall not enter the territorial jurisdiction of District-Pune, till conclusion of the trial of Special MCOCA Case No. 718 of 2020, except for attending the hearing of the said case and for the purpose of reporting before the Investigating Officer, Wakad Police Station, District-Pune.

16. Criminal Bail Application No. 96 of 2025 stands disposed of in the abovesaid terms..

[ASHWIN D. BHOBE, J.]

Digitally signed
by GITALAXMI
KRISHNA
KOTAWADEKAR
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2025.08.18
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