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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 155 OF 2025

Keshav Minu Mistry

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Rohidas M. Bhor a/w. Mr. Walchand W. Sawant, Mr. Rahul Gaikwad, Mr. Kiran Yadav, Advocates for Applicant.
- Ms. Savita M. Yadav, APP for Respondent – State.
- Mr. Deepak Kumbhar, PSI – Waliv Police Station present.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 13, 2025.

P.C.:

1. Heard Mr. Bhor, learned Advocate for Applicant and Ms. Yadav, learned APP for Respondent – State.

2. This is an Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Regular Bail in connection with C.R.No.557 of 2017 registered with Waliv Police Station, Palghar for the offences punishable under Sections 302, 201, 404, 120-B read with 34 of the Indian Penal Code, 1860.

3. Learned Advocate appearing for the Applicant has been appointed by the Applicant and he has persuaded the Court to go through the record of the case and made three submissions, first submission for seeking bail is the long incarceration of the Applicant since the date of his arrest is on 15.09.2017. Second submission is that

the trial is underway but whether it would be completed in the near foreseeable future is an uncertainty. To support this submission, he has drawn my attention to the order dated 02.05.2024 appended at Exhibit “I” – page No.35 of the Application. I have perused that order. The order rejects the Bail Application filed by the Applicant in the year 2023. Application was decided in the absence of the Applicant or any Advocate representing the Applicant after hearing the prosecution. Order states that Applicant has addressed the letter from the jail which was received by the Court and in response thereto the prosecution was directed to take obtain instructions. The order states that the learned Prosecutor informed the Court that on 02.05.2024 until that date 10 witnesses were examined and 5 more witnesses were to be examined on behalf of the prosecution. Court therefore passed the order accepting the statement made by the learned Prosecutor and infact directed by that order to the learned Additional Sessions Judge, Vasai to make every endeavour to conclude the trial on or before 31.12.2024.

4. Present Bail Application is filed on 10.01.2025 highlighting the aforesaid issue. What is pleaded in the Application is that the trial is still not completed and in view of the slow progress of the trial, long incarceration of the Applicant be considered by the Court as it is violative of the right to speedy trial contemplated under Article 21 of the Constitution of India.

5. Grounds made out in the Application also persuade the Court to consider release of the Applicant on merits namely that the crime in question is based on circumstantial evidence. Applicant is a permanent resident of Vasai, Palghar and has as deep roots in the Society and his family resides over there, I am dissuading myself from looking into it only because of the trial being under progress.

6. Ms. Yadav, learned APP has persuaded me to reject the present Application for bail in view of the impending trial and the prosecution now desiring to examine only 4 more witnesses since witness action of 4 witnesses has already been completed. She has briefly address me on the gravity of the offence committed by the Applicant for which he is charged under Section 302 of IPC and other allied Sections but as delineated herein above, the motive of the crime is *prima facie* seen from the record of the case. Applicant is arraigned as Accused No.3 in the crime. By order dated 07.03.2025, co-accused Sitaram Ashokkumar Diwedi (Accused No.1) is granted bail by this Court on the ground of his long incarceration which ground equally applies to the Applicant before me.

7. I do not wish to give any opinion on merits lest, it would affect the ongoing trial. Hence only on the ground of long incarceration of the Applicant for 7 years, 5 months and 28 days, in the facts stated herein above, I am inclined to accept the submissions made

by the learned Advocate for Applicant and release the Applicant on bail.

8. Bail Application is therefore allowed on the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.25,000/- with one or two sureties of the like amount;
- (ii) Applicant shall report to the Investigating Officer of concerned Police Station as and when called by the Investigating Officer;
- (iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates, unless specifically exempted and will not take any unnecessary adjournments, if he does so it will entitle the prosecution to apply for cancellation of this order;
- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (v) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (vi) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from

time to time, as applicable; and

(vii) Any infraction of the conditions shall entail prosecution to apply for cancellation of bail granted to the Applicant.

9. It is clarified that the above observations in this order are limited for the purpose of granting bail only and I have not made any observations on the merits of the case and the trial shall proceed uninfluenced by the present order.

10. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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