

Shabnoor

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

BAIL APPLICATION NO. 379 OF 2025

Syed Muzammil Hasan Sirajul Hasan ... Applicant

V/s.

State of Maharashtra ... Respondent

Digitally
Signed by
SHABNOOR
AYUB
PATHAN
Date:
2025.07.25
15:45:38
+0530

Mr. Osman A Chisty I.b Mr. Ashok Rao, for the
applicant.

Mr. Sagar R. Agarkar, APP for the State – respondent.

Mr. Nitin D. Sawant, PSI Bangur Nagar Police Station.

CORAM : AMIT BORKAR, J.

DATED : JULY 25, 2025

P.C.:

1. The present application for bail is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No. 335 of 2018 registered with Bangurnagar Police Station, Mumbai. The applicant is facing prosecution for the offence punishable under Section 302 of the Indian Penal Code, 1860, for the alleged murder of one Ms. Mansi Dixit.

2. The case of the prosecution, in brief, is that on 15th October 2018, at about 3:00 p.m., the informant, a police officer, received information from the Central Control Room regarding a suspicious suitcase found near the shooting point area at Mindspace, Malad

(West), and assistance of the police was requested at the spot. Upon receiving this message, the informant, along with his colleague Police Constable Amir Pathan, immediately proceeded to the said location.

3. Upon reaching the spot, the police personnel met one Prakash Pandappa Chauhan, who informed them that he had made a call to the Police Helpline No. 100 to report about the suspicious bag. Prakash pointed out a chocolate-coloured travel bag which was found lying on the footpath near the shooting point.

4. It is further the case of the prosecution that Prakash, who works as an Ola cab driver, informed the police that a customer had booked his cab from Millat Nagar to the Airport and had brought the same bag with him. However, during the journey, the passenger instructed him to divert the cab towards Mindspace, Malad, stating that he had to pick up a friend. After reaching the said spot, the passenger allegedly stepped out, kept the bag on the footpath, and left the location in an autorickshaw.

5. Upon checking the said bag, the dead body of the deceased Ms. Mansi Dixit was discovered inside. The body was found at around 3:44 p.m. on the same day. Based on this information, a First Information Report came to be registered and investigation commenced. The applicant came to be arrested on the same day i.e. 15th October 2018. The application for bail preferred before the learned Sessions Court came to be rejected. The present bail application is filed before this Court seeking release on bail.

6. Learned counsel for the applicant has submitted that the applicant has been in custody since 15th October 2018. It is submitted that the prosecution has cited 21 witnesses, and the case is purely based on circumstantial evidence. The applicant is languishing in jail for more than five years without trial having commenced. It is pointed out that even the charge has not been framed till date, which indicates an inordinate delay. It is urged that this delay amounts to a violation of the applicant's fundamental right guaranteed under Article 21 of the Constitution of India, particularly the right to a speedy trial. On these grounds, the applicant seeks his release on bail.

7. Per contra, the learned Additional Public Prosecutor has strongly opposed the prayer for bail. It is submitted that the material collected during investigation clearly implicates the applicant. The CCTV footage obtained by the investigating agency shows that the applicant and the deceased were seen entering a flat together, and thereafter only the applicant is seen exiting the flat alone. This circumstance, according to the prosecution, directly points to the involvement of the applicant in the commission of the offence. It is further submitted that the gravity of the offence, the nature of evidence, and the conduct of the applicant do not entitle him to be released on bail at this stage.

8. Having heard the learned counsel for the applicant and the learned APP for the State and having perused the material on record, this Court is of the considered view that the applicant deserves to be enlarged on bail, primarily on the ground of inordinate delay in the conduct of trial.

9. The applicant has been in custody since 15th October 2018, and thus has undergone more than five years and nine months of incarceration as an undertrial prisoner. It is not in dispute that the charge is yet to be framed by the learned Sessions Court. The prosecution has cited 21 witnesses, and the case rests on circumstantial evidence. No justifiable explanation has been offered for the delay in commencement of trial.

10. The right to a speedy trial is a facet of the fundamental right guaranteed under Article 21 of the Constitution of India. The Hon'ble Supreme Court in *Hussainara Khatoon v. State of Bihar*, (1980) 1 SCC 81, has categorically held that speedy trial is an essential ingredient of fair trial and any unreasonable delay violates the fundamental rights of the accused.

11. In the facts of the present case, despite the seriousness of the offence alleged against the applicant, the delay in proceeding with the trial cannot be overlooked. The accused cannot be kept behind bars indefinitely. The evidentiary value of the material and the gravity of allegations are matters to be appreciated during the course of the trial. At this stage, this Court is only required to form a prima facie opinion and consider whether continued incarceration is justified.

12. It is also not the case of the prosecution that the applicant has misused liberty or attempted to tamper with the evidence during the course of investigation. The applicant is a young person and a first-time offender, and the likelihood of absconding or threatening witnesses can be safeguarded by imposing appropriate

conditions.

13. In view of the above discussion, particularly the prolonged incarceration of more than five years without commencement of trial, and the constitutional mandate of a speedy trial under Article 21, this Court is of the opinion that further pre-trial detention of the applicant would not serve the ends of justice.

14. In view of the above discussion and legal position, the following order is passed:

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime Register No. 335 of 2018 registered with Bangurnagar Nagar Police Station for offences punishable under Section 302 of IPC, upon furnishing a Personal Bond of ₹50,000/- (Rupees Fifty Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.

(b) The applicant shall report to the Bangurnagar Nagar Police Station twice a month, specifically on the 1st and 15th day of each month, between 10:00 a.m. and 12:00 noon, until further orders.

(c) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(e) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

15. The Bail Application stands disposed of in above terms.

(AMIT BORKAR, J.)