

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

CRIMINAL BAIL APPLICATION NO. 381 OF 2025

Harsh @ Toinu Suresh Mhaske ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Aniket Vagal a/w Ms. Savvy Kolhekar, Ms. Juhi Kadu and Mr. Kunal Pednekar, learned Advocates for the Applicant.

Ms. Anamika Malhotra, learned A.P.P. for the State/Respondent.

PSI Mr. Nikhil Korpad attached to Upnagar Police Station, Nashik City is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 3rd JULY 2025.

P.C. :

1. Heard Mr. Aniket Vagal, learned Advocate for the Applicant and Ms. Anamika Malhotra, 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 on the ground of his long incarceration.

3. Applicant was arrested by Upnagar Police Station, Nashik in connection with Crime No. 414 of 2020 for the offences punishable under Sections 307 read with 34 of the Indian Penal Code Act, 1860 (“**IPC**” for short), Sections 4 and 25 of the Indian Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951.

4. Mr. Aniket Vagal, learned Advocate for the Applicant submits that the abovesaid crime is now registered as Sessions Case No. 265 of 2023 and is pending on the file of Additional Sessions Judge, Nashik.

5. There are 2 accused in the said crime. Applicant is Accused No. 2, whereas Kiran Anil Kasabe is Accused No. 1.

6. Criminal Bail Application filed by the Applicant in Sessions Case No. 265 of 2023 was rejected by the Court of Additional Sessions Judge, Nashik vide order dated 9th December 2024.

7. Mr. Aniket Vagal, learned Advocate submits that the Applicant claims bail on the ground of long incarceration. He submits that the Applicant was arrested on 6th February 2021 and he continues to be in jail since then. He submits that till date charge has not been framed in Sessions Case No. 265 of 2023. He submits that Kiran Anil Kasabe (Accused No. 1) in the said crime is released on bail by the learned Sessions Court by order dated 27th November 2020. He relies on the orders of this Court in the case 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 ground of long incarceration.

8. Ms. Anamika Malhotra, learned A.P.P. for the State/Respondent submits that the Applicant has criminal antecedents and she points out to the offence registered by Upnagar Police Station bearing Crime No. I-555 of 2020. She on

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

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

instructions submits that till date the charge is not framed.

9. In response to the contention of Ms. Anamika Malhotra, learned A.P.P. with reference to the Crime bearing No. I-555 of 2020, Mr. Aniket Vagal, learned Advocate has tendered copy of the order dated 16th October 2024, passed by this Court in Criminal Bail Application No. 3347 of 2024, by which Accused No. 1 is granted bail. The same is taken on record and marked as "X" for identification.

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

11. Applicant was arrested on 6th February 2021 and he is in continuous incarceration for a period of 4 years and 4 months, as submitted by Mr. Aniket Vagal, learned Advocate for the Applicant. Charge is not framed in the said proceedings bearing Sessions Case No. 265 of 2023.

12. In view of the above, Mr. Aniket Vagal, learned Advocate for the Applicant is justified in pressing into the Applicant's right to be enlarged on bail on the grounds of denial of speedy trial and continuous long incarceration, as the Applicant cannot continue to be incarcerated as an under-trial prisoner, indefinitely. Another Accused in the said crime is released on bail (order is at Page No. 76 of the paper-book). Applicant is therefore entitled for bail on the ground of his long incarceration.

13. In view of the above, the present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 414 of 2020 registered with Upnagar Police Station, Nashik for the offences punishable under Section 307 read with 34 of the IPC, Sections 4 and 25 of the Indian Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951 on executing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty-five Thousand Only) with one or two sureties in the like amount to the satisfaction of the Additional Sessions Judge, Nashik.
- b. Applicant shall regularly appear before the Additional Sessions Judge, Nashik as and when the date in Sessions Case No. 265 of 2023 is fixed, unless exempted by the learned Trial Court.
- c. 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 such a person from disclosing the facts to the Court or to any Police personnel.
- d. Applicant shall not tamper with the prosecution evidence.
- e. Applicant upon release, within a period of 3 days from his release, shall furnish his residential address with proof and contact details to the Investigating Officer, Upnagar Police Station, Nashik.

14. Criminal Bail Application No. 381 of 2025 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

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