

Ajay

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

CRIMINAL BAIL APPLICATION NO. 544 OF 2025

Sitaram Ashokkumar Diwedi

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Santraj Rampyare, Advocate for Applicant.
- Mr. Dinesh J. Haldankar, APP for Respondent – State.
- Mr. A.S. Chavan, PSI – Waliv Police Station present.

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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 07, 2025.

P.C.:

1. Heard Mr. Rampyare, learned Advocate for Applicant and Mr. Haldankar, 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 “E” – page No.23 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 requested 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 31.01.2025 highlighting the aforesaid issue. What is pleaded in the Application is that the trial is still not completed and in view of the 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. Though the grounds in the Application also persuades the Court to consider release of the Applicant on merits namely that crime in question. The charge in question is based on circumstantial evidence and Applicant's permanent resident at Bhayander, Thane as deep roots in the Society and his family resides over there, I am dissuading myself from looking into only because of the trial being under progress.

6. Mr. Haldankar, 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. He 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.

7. I do not wish to give any opinion on the same lest, it would affect the ongoing trial. Hence only on the ground of long incarceration of the Applicant for 7 years, 5 months and 22 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.]

Ajay

Digitally signed
by AJAY
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