

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.846 OF 2025

Mohd. Iqlak Nasim Qureshi,
R/o.Bandra (W), Mumbai
(presently lodged at Taloja Central Jail) Applicant

versus

The State of Maharashtra Respondent

ATUL
GANESH
KULKARNI

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Mr.Veerdhawal Deshmukh with Mr.Omesh Singh and
Ameyprasad Atigre for Applicant.
Mr.Sagar R.Agarkar, APP, for State.

CORAM : AMIT BORKAR J.

DATE : 3rd July 2025

PC :

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973. The Applicant is seeking regular bail in connection with Crime No.946 of 2019 dated 26th November 2019, registered at Bandra Police Station, Mumbai. The Applicant has been arrested for offences punishable under Sections 302, 201, 323, 324, and 37 of the Indian Penal Code, 1860.

2. As per the case of the prosecution, the Applicant was married to the deceased. It is alleged that prior to the incident, the Applicant came to know that the deceased was having an extra-marital relationship with one person named Saddam. Owing to this, the Applicant shifted his residence. However, he suspected that the deceased continued to remain in contact with

said Saddam.

3. It is alleged that on 25th November 2019, while the deceased was asleep, the Applicant checked her phone and accessed her call details. Upon noticing multiple calls exchanged between the deceased and Saddam, the Applicant allegedly lost control over his emotions. The prosecution claims that, in a fit of rage, he throttled the neck of the deceased and thereafter poured kerosene on her and set her ablaze. The deceased succumbed to burn injuries even before she could be admitted to the hospital. On these allegations, a First Information Report was registered against the Applicant for committing the murder of his wife and attempting to destroy the evidence of the crime.

4. Learned counsel appearing for the Applicant submitted that this Court had earlier considered Bail Application No.412 of 2022. At that time, though the bail application was dismissed as withdrawn, liberty was granted to the Applicant to renew his request for bail in case the trial was not concluded within a period of six months.

5. Learned counsel pointed out that even after lapse of a considerable period, the trial has not progressed satisfactorily. He placed reliance on the Roznama (Court record) to show that on at least six occasions, the Applicant was not produced before the learned Sessions Court, thereby causing delay in the conduct of trial. He also pointed out that the prosecution has cited as many as 29 witnesses, and looking at the pace of trial, it is unlikely that it will conclude in near future. He therefore

submitted that in the interest of justice and in view of delay in trial, the Applicant be released on bail.

6. On the other hand, learned APP opposed the bail application. He submitted that although the chargesheet mentions 26 prosecution witnesses, it is likely that only about 16 witnesses would be examined during the trial. Out of these, five witnesses have already been examined. He thus submitted that the trial is progressing and that the same can be concluded within a further period of six months from today.

7. I have considered the submissions made on behalf of the Applicant and the learned APP. I have also perused the material placed on record including the order passed by this Court in earlier Bail Application No.412 of 2022, as well as the copy of the Roznama and the present stage of the trial.

8. It is not in dispute that the incident occurred in November 2019 and the Applicant has been in custody for more than five years. It is also not denied that despite directions issued earlier, the trial has not concluded till date. The Roznama clearly indicates that on multiple occasions the trial proceedings could not move forward due to non-production of the Applicant. Further, though the prosecution has cited 26 witnesses, only 5 have been examined so far. Even if it is presumed that only 16 witnesses will be examined, considering the pace at which the trial is moving, it appears doubtful that it will conclude in the immediate future.

9. It is well settled that prolonged incarceration of an undertrial prisoner without conclusion of trial amounts to violation of his fundamental right under Article 21 of the Constitution of India. In this context, the Hon'ble Supreme Court in *Hussain & Anr. v. Union of India*, (2017) 5 SCC 702, has held that right to speedy trial is a part of fair trial guaranteed under Article 21. The Court further held that inordinate delay in trial is a valid ground for granting bail in appropriate cases, even in serious offences.

10. In the present case, the Applicant has roots in society. There is no material placed on record to show that the Applicant has attempted to misuse his liberty earlier or has tried to influence witnesses. The apprehension of the prosecution that the Applicant may tamper with evidence can be addressed by imposing suitable conditions.

11. Taking an overall view of the matter, including the prolonged incarceration of more than five years, slow pace of trial, and keeping in mind the principles laid down by the Hon'ble Supreme Court, I am of the opinion that the Applicant deserves to be released on bail subject to strict conditions.

ORDER

- (i) Bail Application is allowed and disposed off;
- (ii) It is directed that the applicant shall be released on bail in Crime No.946 of 2019, dated 26th November 2019 registered with Bandra Police Station, Mumbai, for the

offences punishable under Sections 302, 201, 323, 324 and 37 of the Indian Penal Code, on furnishing P.R.Bond of Rupees Twenty Five Thousands with one or two solvent surety in the like amount;

(iii) The Applicant shall attend Bandra Police Station, Mumbai, on 1st Monday of every month between 10.00 a.m and 12.00 noon till conclusion of trial, except for trial;

(iv) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

(v) Liberty is granted to the State for cancellation of bail if the applicant commits similar offence;

(vi) The applicant shall attend the trial before the Trial Court regularly on every date unless exempted by the trial Court for any reason.

(AMIT BORKAR, J.)