

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1136 OF 2025

Kishor @ Babu Vijay Bhapkar ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Rushikesh Kale, learned Advocate for the Applicant.
Mr. Amit A. Palkar, learned A.P.P. for the State/Respondent.

CORAM : ASHWIN D. BHOBE, J.
DATE : 3rd JULY 2025.

P.C. :

1. Heard Mr. Rushikesh Kale, learned Advocate for the Applicant and Mr. Amit Palkar, 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 in connection with Crime No. 495 of 2019 registered with Baramati Police Station, Pune Rural for the offences punishable under Sections 143, 145, 147, 148, 149, 302, 323, 504 and 506 of the Indian Penal Code Act, 1860 (“IPC” for short).
3. Mr. Rushikesh Kale, learned Advocate for the Applicant submits that the abovesaid crime is registered as Sessions Case No. 238 of 2019 and is pending on the file of Additional Sessions Judge, Baramati.

4. Mr. Rushikesh Kale, learned Advocate points out that the first Bail Application filed by the Applicant was rejected vide order dated 18th March 2021. He submits that the said order was carried before the Hon'ble Supreme Court, which was also dismissed on 22nd March 2023. He submits that the Applicant filed the second Bail Application, which though was rejected on 21st August 2024, this Court by taking note of the pendency of trial, had directed the learned Trial Court to commence trial on day to day basis and conclude the same within a period of 5 months from 21st August 2024. He submits that the trial is commenced only on 27th June 2025 and as on date the examination-in-chief of Prosecution Witness-1 is partly recorded. He submits that the matter is not proceeding on day to day basis. He submits that this Court had by order dated 2nd May 2025, called upon the State/Respondent to place on record the status of trial. He submits that the State/Respondent has filed its reply and the fact of trial not being concluded, is evident from the said reply. He therefore submits that the case of Applicant be considered on the ground of long incarceration, as the Applicant is in jail since 17th September 2019, i.e., for a period of 5 years and 10 months. 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.

5. Mr. Amit Palkar, learned A.P.P. for the State/Respondent submits that the State/Respondent has filed its reply in terms of

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

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

direction dated 2nd May 2025. By pointing out the averments in the Affidavit, he submits that the trial has commenced on 27th June 2025. He submits that chief-examination of PW-1 is in progress. He submits that Affidavit makes a reference to the reasons for the delay in trial. He on instructions states that the trial is not proceeding on day to day basis.

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

7. This Court by its order dated 21st August 2024, had made the following observations in Paragraph Nos. 6 and 7 :-

“6. However, the learned Trial Judge is directed to immediately start the trial on a day to day basis and conclude it within a period of five months from today.

7. The accused as well as the prosecution shall co-operate with the disposal of the trial within that period.”

8. Mr. Rushikesh Kale, learned Advocate has stated that the trial is neither commenced within a period of 5 months, as directed by this Court, nor the trial was taken up on day to day basis. Though Mr. Amit Palkar, learned A.P.P. does not dispute the said factual position, he places reliance on Paragraph Nos. 5 and 6 of the Affidavit dated 26th June 2025, filed by Mr. Vikram Shivaji Pawar, Assistant Police Inspector attached to Baramati Taluka Police Station, District-Pune Rural, to give the reasons for the delay.

9. Be that as it may. The trial is not concluded within a period as directed by this Court in its order dated 21st August 2024, passed

in Criminal Bail Application No. 2942 of 2024.

10. Considering the Applicant is incarcerated since 17th September 2019 and by taking note of pendency of trial, which trial has commenced only as on 27th June 2025, the Applicant is justified in pressing into service his right to be enlarged on bail, as the Applicant cannot continue to be incarcerated as an under-trial prisoner, indefinitely. It is only on this ground of long incarceration and considering the pace of trial, this Court is constrained to enlarge the Applicant on bail.

11. 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. 495 of 2019 registered with Baramati Police Station, Pune Rural for the offences punishable under Sections 143, 145, 147, 148, 149, 302, 323, 504 and 506 of the IPC on executing PR. 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, Baramati.
- b. Applicant shall regularly appear before the Additional Sessions Judge, Baramati as and when the date in Sessions Case No. 238 of 2019 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.

12. Criminal Bail Application No. 1136 of 2025 stands disposed of in the abovesaid terms.

13. Registry is directed to forward the order of this Court dated 21st August 2024, passed in Criminal Bail Application No. 2942 of 2024 to the Additional Sessions Judge, Baramati and call for report from the learned Trial Court in respect of Paragraph No. 6 of the said order. Such report be called within a period of two weeks from today and placed before this Court.

[ASHWIN D. BHOBE, J.]

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