

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1157 OF 2025

GurucharanSingh KarnalSingh Chahal ...Applicant.

Versus

State of Maharashtra. ...Respondent.

Mr. Deepa Punjani, Advocate for the Applicant.

Mr. T.G.Khan, APP for the Respondent-State.

PSI Abhaysinh Shinde, Crime Branch-03, Panvel, Navi Mumbai.

CORAM: ASHWIN D. BHOBE, J

DATED: 21st AUGUST, 2025

PC:-

1. Heard Ms. Deepa Punjani, learned Advocate for the Applicant and Mr. T.G. Khan, 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. 115 of 2018 registered with Kalamboli Police Station, Navi Mumbai, for the offences punishable under Section 392 read with 34 of the Indian Penal Code, 1860 ("IPC" for short) and Section 3(1)(ii) and 3(4) of MCOCA.

3. Said crime is registered as Special (MCOC) Case No. 109 of 2020 and is pending on the file of the District Judge-2 and Additional Sessions Judge, Panvel, District Raigad.

4. There are four accused in the present crime. Applicant is Accused No. 1.

5. Ms. Deepa Punjani, learned Advocate for the Applicant submits that the Applicant was arrested on 24th July, 2018 and since then he is in jail. Bail Application filed by the Applicant at Exh. 45 in Special (MCOC) Case No. 109 of 2020 was rejected on 17th February, 2025. She submits that the Applicant is in jail for a continuous period of more than 7 years. She submits that though charge is framed, till date prosecution has not examined even a single witness. She therefore submits that the case of the Applicant be considered on the ground of long incarceration. She relies on the orders of this Court in the cases 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 her contention for grant of bail on the grounds of long incarceration and denial of Applicant's right to speedy trial.

6. Mr. Khan, learned A.P.P. for the State/Respondent does not dispute the Applicant is in jail since 24/07/2018 and trial in Special (MCOC) Case No. 109 of 2020 having not commenced till date, though charge is framed.

7. I have perused the records with the assistance of learned Advocates

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

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

of the parties.

8. Pre-arrest detention of the Applicant is almost 7 years and 1 month, apart from framing of the charge, there being no progress in Special (MCOC) Case No. 109 of 2020 are facts not in dispute

9. In the case of *Siddhant @ Sidharth Balu Taktode v/s. The State of Maharashtra and Another*,³ the Hon'ble Supreme Court, in paragraph nos. 9, 10 & 15 to 17 has observed as under :-

“9. However, it is to be noted that this Court in the case of *Manish Sisodia v. Directorate of Enforcement* (2024 SCC OnLine SC 1920 : 2024 INSC 595), while considering the twin conditions, as applicable under the provisions of Prevention of Money Laundering Act, 2002 has held that prolonged incarceration without the accused being made to face the trial would result in forcing him to face the sentence without undergoing the trial. In the said case of *Manish Sisodia* (supra), the Court has also held that the right to speedy trial is also one of the facets of the rights flowing from Articles 19 and 21 of the Constitution of India. The said judgment of this Court in the case of *Manish Sisodia* (supra), has been constantly followed in various other judgments including the case of *Kalvakuntla Kavitha v. Directorate of Enforcement* (2024 SCC OnLine SC 2269 : 2024 INSC 632).

10. The material placed on record would reveal that for a period of the last six years, out of 102 dates, the accused has not been produced before the Court either physically or through virtual mode on most of the dates. On the last date, we had put a query to the learned counsel appearing for the State as to why the charges were not framed as of date in this case. Shri Kilor fairly states that the charges have not been framed in the cases which are registered prior to the registration of the present case. We may say with anguish that this is a very sorry state of affairs. If an accused is incarcerated for a period of approximately five years without even framing of charges, leave aside the right of speedy trial being affected, it would amount to imposing sentence without trial. In our view, such a prolonged delay is also not in the interest of the rights of the victim.

15. It is pertinent to mention that during the hearing of the present appeal, as already discussed above, a sorry state of affairs is being depicted. The trial is being prolonged on the ground that the appellant is not produced before the Trial Judge either physically or virtually. We are informed that this is not a solitary case but in many cases such a difficulty arises.

16. We, therefore, direct the Registrar General of the High Court of Judicature at Bombay, Secretary, Home, State of Maharashtra and Secretary, Law and Justice, State of Maharashtra to sit

3 2024 SCC OnLine SC 3798

together and evolve a mechanism to ensure that the accused are produced before the Trial Judge either physically or virtually on every date and the trial is not permitted to be prolonged on the ground of non-production of the accused persons.

17. *A copy of this order be forwarded to the Registrar General of the High Court of Judicature at Bombay, Secretary, Home, State of Maharashtra and Secretary, Law and Justice, State of Maharashtra forthwith for necessary action."*

10. In the case of *Rabi Prakash v/s. State of Odisha*⁴, the Hon'ble Supreme Court in paragraph no. 4 has observed as under :-

4. As regard to the twin conditions contained in Section 37 of the NDPS Act, learned counsel for the respondent – State has been duly heard. Thus, the 1st condition stands complied with. So far as the 2nd condition re: formation of opinion as to whether there are reasonable grounds to believe that the petitioner is not guilty, the same may not be formed at this stage when he has already spent more than three and a half years in custody. The prolonged incarceration, generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution and in such a situation, the conditional liberty must override the statutory embargo created under Section 37(1)(b)(ii) of the NDPS Act.

(emphasis supplied)"

11. Ms. Punjani, learned Advocate for Applicant submits that the other co-accused viz. Accused Nos. 2, 3 and 4 have been released on bail, on the ground of their long incarceration. She submits that the Applicant is similarly placed in the context of his detention being for 7 years.

12. It is trite law that prolonged incarceration pending conclusion of trial is clearly violative of right guaranteed under Article 21 of the Constitution of India, which has been construed to right of fair as well as speedy trial. Trial which would include examination of the prosecution witnesses, recording of the statement of Accused under Section 351 of the BNSS and defence evidence if any, would certainly prolong the trial. Applicant cannot continue to be incarcerated as an under-trial, indefinitely. In the facts and circumstances of the case, Applicant would be justified in pressing his right of denial of

4 2023 SCC OnLine SC 1109.

speedy trial.

13. Ms. Punjani, learned Advocate for the Applicant on instructions from the Applicant submits that the Applicant shall not enter the jurisdiction of Raigad District till the conclusion of the trial in Special (MCOCA) Case No. 109 of 2020 except for attending hearing of the said case. Statement accepted.

14. On the ground of prolonged incarceration of the Applicant, this Court is constrained to enlarge the Applicant on bail. Hence, the present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 115 of 2018 registered with Kalamboli Police Station, Navi Mumbai on executing P.R. Bond in the sum of Rs. 50,000/- (Rupees Fifty Thousand Only) with one or two local sureties in the like amount to the satisfaction of the District Judge-2 and Additional Sessions Judge, Panvel, District-Raigad.
- b. Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade such person from disclosing such facts to the Court or to any police officer.
- c. Applicant shall not tamper with the prosecution witnesses and evidence in any manner.
- d. Applicant upon his release, within a period of three days from his release, shall furnish his cell phone number and

residential address with proof to the Investigating Officer, Kalamboli Police Station, Navi Mumbai and shall keep the same updated, in case of any change thereto.

e. Applicant shall co-operate in the conduct of the trial of Special (MCOC) Case No. 109 of 2020 and shall regularly attend the hearing of the case pending on the file of District Judge-2 and Additional Sessions Judge, Panvel, District-Raigad, on each and every date, unless exempted from appearance.

f. Applicant shall report/attend before the Investigating Officer, Kalamboli Police Station, Navi Mumbai, District-Raigad on first and last Saturday of every month from 10.00 a.m. to 1.00 p.m. till further orders from the Trial Court in the said case.

g. Applicant shall not enter the territorial jurisdiction of District-Raigad, till conclusion of the trial of Special (MCOC) Case No. 109 of 2020, except for attending the hearing of the said case and for the purpose of reporting before the Investigating Officer, Kalamboli Police Station, District-Raigad.

15. Criminal Bail Application No. 1157 of 2025 stands disposed of.

(ASHWIN D. BHOBE,J.)