

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1544 OF 2025

1. Mijanu Imran Mirza

AND

2. Shahana Mijanu Mirza

.. Applicants

Versus

The State of Maharashtra

.. Respondent

.....

- Mr. Kuldeep S. Patil a/w. Ms. Saili Dhuru, Advocates for Applicant.
- Mr. Rushikesh M. Pethe, APP for Respondent appearing through Video Conferencing.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 21, 2025

P.C.:

1. Heard Mr. Patil, learned Advocate for Applicants and Mr. Pethe, learned APP for Respondent appearing through Video Conferencing.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking Bail in connection with LAC No.9 of 2013 registered with DCB, CID, Mumbai for offences punishable under Section 3 read with Section 6 of the Passport (Entry into India) Rules, 1950, paragraph 3(1) of Foreigners Order, 1948; Section 14 of Foreigners Act, 1946 and paragraph No.2 of Foreigners (Report to Police) Order, 1971.

3. Applicants are incarcerated in prison since 09.01.2025. However circumstances are such that Applicants who are foreign

nationals were arrested on 15.01.2013 in the present crime and were granted bail immediately within a period of one month i.e. on 22.02.2013.

4. Applicants remained enlarged on bail and in the meanwhile the trial commenced recently. Stage of the trial is that one witness out of the probable six witnesses which prosecution desires to examine has been examined till date.

5. Mr. Patil would submit that there were exigencies and grievances due to which Applicants could not attend the dates before the Trial Court leading to issuance of Warrants and Applicants being re-arrested in the present crime for which they are facing incarceration.

6. He would persuade the Court to consider the grounds mentioned in the Application and enlarge the Applicants on bail with a caveat that Applicants shall attend each and every date before the Trial Court if released on bail.

7. *PER CONTRA*, Mr. Pethe, learned APP appearing through Video Conferencing would submit that submissions on facts made by Mr. Patil *prima facie* are borne out from the record. He would submit that if Application deserves to be sustained for passing of any order, Court should ensure passing appropriate stringent directions so that there is no breach of the order of Court neither Applicants will take the

order lightly and re-offend themselves again by distancing themselves away from the trial. Learned APP *prima facie* appears to be correct while making such submissions.

8. I have heard Mr. Patil, learned Advocate for Applicant and Mr. Pethe, learned APP for Respondent appearing through Video Conferencing and with their able assistance perused the record of the case. Submissions made by them have received due consideration of this Court.

9. Once it is *prima facie* seen that Applicants were once enlarged on bail in the year 2013 itself in the present crime and trial in the present case has commenced, in that view of the matter, the exigencies due to which Applicants could not attend the trial Court on the hearing dates deserve to be considered for grant of present Application.

10. However, it is clarified and made clear that Applicants who are husband and wife will not repeat their conduct and abstain themselves from the trial in the present case. Both Applicants are therefore directed to file an appropriate undertaking to that effect giving details about the place and the person with whom they will be residing if they are released on bail to the concerned Trial Court within a period of one week from the date of their release from prison on bail.

11. In view of the above *prima facie* observations, Application is

allowed subject to following terms and conditions:-

- (i) Both Applicants are directed to be released on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each with one or two sureties in the like amount;
- (ii) Before their actual release from jail, Applicants shall furnish their address where they propose to reside after their release from jail to the concerned Police Station and also to the trial Court;
- (iii) After their release from jail, Applicants shall report to the Investigating Officer as and when called for;
- (iv) Applicants shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark their presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicants shall mark presence on the next working day;
- (v) Applicants 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 they do so, it will entitle the prosecution to apply for cancellation of this order;

- (vi) Applicants shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vii) Applicants shall not influence any of the witnesses or tamper with the evidence in any manner; and
- (viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking their attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

12. It is clarified that the observations made in this order are limited for the purpose of granting Bail only. They shall not be construed as observations on merit. The trial shall be adjudicated on the strength of evidence led by parties and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

13. Bail Application No.1544 of 2025 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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