

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1646 OF 2025

Mohd Sohel Mohd Shafi Shaikh

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Prashant Pandey a/w. Mr. Dinesh Jadhvani, Ms. Ridhima Mangaonkar, Advocates i/by W3Legal LLP for Applicant.
- Ms. Mahalakshmi Ganapathy, APP for Respondent.

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 24, 2025

P.C.:

1. Heard Mr. Pandey, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent.

2. Bail Application is filed by Applicant seeking bail solely on ground of long incarceration pending trial.

3. Mr. Pandey would submit that Applicant is indicted for offence punishable under Sections 302 and 201 of the Indian Penal Code, 1860 for past 5 years 3 months pending trial and three witnesses have been examined till date out of probable and intended 75 witnesses which prosecution is desiring to examine.

4. He would in his usual fairness submit that prosecution undoubtedly would argue on gravity of crime and therefore he would restrict his submission only on the ground of long incarceration

considering the prosecution case against Applicant.

5. He would persuade the Court to consider the fact that out of 124 dates on which case was listed before Trial Court, Applicant was not produced before the Trial Court on several dates. He would submit that if the trial has begun the ignominy of Applicant of trial being protracted further would undoubtedly lead to further incarceration in prison and therefore he is invoking the right of Applicant to speedy justice as envisaged under Article 21 of the Constitution of India, as also personal liberty and would persuade the Court to consider the present case.

6. Ms. Ganapathy, learned APP enters appearance for prosecution. She would submit that the facts in the present case are extremely serious and gross which Court needs to consider.

7. Learned APP is directed by this Court to take instructions on the precise role attributable to Applicant, precise facts in the case, as also submissions made by Mr. Pandey today, *inter alia*, pertaining to conduct of trial.

8. This is in view of the fact that Mr. Pandey has placed before the Court a decision of the co-ordinate Bench (Coram : S. G. Mehare, J.) of the Aurangabad Bench of this Court in the case of ***Gaurav Bandu Patil Vs. State of Maharashtra and Anr.***¹ which was an identical case

¹ 2024 SCC OnLine Bom 1258.

for grant of bail in the case of an undertrial Accused being incarcerated for long in prison and wherein progress of trial was abysmal. I have perused the said decision.

9. Learned APP shall consider the said decision also at the time of making submissions on the next adjourned date when case of Applicant shall be heard and decided especially considering long incarceration of Applicant for more than 5 years 3 months.

10. Stand over to **04th July, 2025.**

H. H. SAWANT

[MILIND N. JADHAV, J.]

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