

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1830 OF 2025

Samir Kalindar Shaikh.

...Applicant.

Versus

State of Maharashtra & Anr.

...Respondents.

Mr. Kuldeep U. Nikam, Advocate for the Applicant.

Mr. Pandurang Gaikwad, APP for Respondent-State.

Mr. Pratik Prataprao Deshmukh, Advocate for the Respondent No. 2.

PSI Sambhaji Naik, Hadapsar Police Station, Pune.

CORAM: ASHWIN D. BHOBE, J.

DATED: 26th AUGUST, 2025.

PC:-

1. Heard Mr. Kuldeep Nikam, learned Advocate for the Applicant, Mr. Pratik Deshmukh, learned Advocate for Respondent No. 2 and Mr. Gaikwad, learned APP for Respondent-State.

2. Amongst other sections, the offences charged against the Applicant in the present crime are under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SC/ST Act" for short), as such the proceedings are recorded in terms of the law laid down by this Court in the case of *Dr. Hema Suresh Ahuja & Others v/s. The State of Maharashtra and Others*¹.

¹ Criminal Appeal No. 911 of 2019 decided on 13th March 2024.

3. Mr. Nikam, learned Advocate for the Applicant submits that there is typographical error in cause title while referring to the name of the Applicant. He seeks leave to correct the same. Not objected to by Mr. Gaikwad, learned APP for State and Mr. Pratik Deshmukh, learned Advocate for the Respondent No. 2.

4. Leave granted. Amendment to be carried out forthwith.

5. By the present Application filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”), the Applicant is seeking regular bail in Crime No. 350 of 2020 registered with Hadapsar Police Station, Dist. Pune for the offences punishable under Sections 363, 364, 302, 147, 148, 149 of the Indian Penal Code, 1860 (for short of IPC) and Sections 109, 352, 351(2)(3) of Bharatiya Nyay Sanhita, 2023 (for short “BNS”). Said Crime is registered as Special Case No. 346 of 2020 and the same is pending before the Court of Special Judge (Under SC & ST (POA) Act), Pune.

6. There are 6 accused in the present crime. Applicant is Accused No. 5.

7. Mr. Nikam, learned Advocate for the Applicant submits that the Applicant is seeking bail on the sole ground of prolonged incarceration. He submits that the Applicant was arrested on 17th March, 2020, since then, the Applicant is in jail for a continuous period of more than 5 years. He submits that charge is not framed in Special Case No. 346 of 2020. He therefore submits that the Applicant is denied of his right to speedy trial. He submits that the Accused No. 3 is released on bail by this Court vide order dated 24th March, 2025 passed in Bail Application No. 4565 of 2024 on the ground of long incarceration. He tenders copy of the order dated 24th March, 2025, same

is taken on record and marked “X” for identification. He relies on paragraph-7 of the said order dated 24.03.2025. He submits that Accused No. 1 has been released on bail by the Additional Sessions Judge, Pune vide order dated 3rd July, 2025 passed in Special Case No. 346 of 2020. He tenders a copy of the said order, same is taken on record and marked “X-1” for identification. Mr. Nikam, submits that the Accused Nos. 1, 2 and 3 have been released on bail on the ground of long incarceration.

8. Mr. Gaikwad, learned APP for the State and Mr. Deshmukh, learned Advocate for the Respondent No. 2 do not dispute the fact of the Applicant being in jail for more than 5 years and the fact of charge not being framed in Special Case No. 346 of 2020.

9. I have perused the record and orders marked at “X” and “X-1”. Applicant is in jail for more than five years and one month. Charge is not framed in Special Case No. 346 of 2020.

10. In the case of *Siddhant @ Sidharth Balu Taktode v/s. The State of Maharashtra and Another*², the Hon’ble Supreme Court, in paragraph nos. 9 & 10 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

² 2024 SCC OnLine SC 3798

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.

(Emphasis supplied)”

11. In view of the above, this Court is compelled to release the Applicant on bail on the sole ground of long incarceration.

12. Bail Application is allowed on the following conditions :

(a) Applicant be released on bail in Crime No. 350 of 2020 registered with Hadapsar Police Station, Dist. Pune upon furnishing PR. Bond in the sum of Rs. 25,000/- with one or two local sureties in the like amount to the satisfaction of the learned Court of Special Judge (Under SC & ST (POA) Act), Pune.

(b) 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 person from disclosing the facts to Court or any Police Officer. The Applicant shall not tamper with evidence.

(c) Applicant upon release within 3 days shall furnish his residential addresses with proof and contact details to the Investigating Officer, Hadapsar Police Station, Dist. Pune.

(d) Applicant shall attend each and every date of hearing in Special Case No. 346 of 2020 before the learned Court of Special Judge (Under SC & ST (POA) Act), Pune, unless exempted.

(e) Applicant shall attend and report to the Investigating

Officer, Hadapsar Police Station, Dist. Pune on every first and 4th Saturday of every month from 11 a.m. to 1 p.m. till conclusion of trial in Special Case No. 346 of 2020.

(f) Applicant shall not leave jurisdiction of Pune District without permission of the Court of Special Judge (Under SC & ST (POA) Act), Pune.

13. Bail Application No. 1830 of 2025 is allowed in the above terms.

(ASHWIN D. BHOBE,J.)