

Ashish

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.2098 OF 2025

Anita @ Sonu Suresh Waghela	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Pranay Saraf, for Applicant.

Ms. Pallavi N Dabholkar, APP for State.

Mr. R.D. Shendge, PSI, Tulinj Police Station.

CORAM : AMIT BORKAR, J.

DATED : JUNE 26, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, in connection with Crime Register No. 296 of 2018 registered with Tulinj Police Station, for the alleged offences punishable under Sections 302 (murder), 363 (kidnapping), 364 (kidnapping for murder), and 201 (causing disappearance of evidence) of the Indian Penal Code, 1860.

2. It is to be noted that the applicant had earlier approached this Court by filing Bail Application No. 1631 of 2024, which was rejected by a detailed order dated 23rd April 2024. While rejecting the bail application at that stage, this Court had specifically granted liberty to the applicant to renew his prayer for bail after a

period of 10 months, if there was no substantial progress in the trial proceedings.

3. From the record placed before this Court, it appears that although charges in the present case were framed way back in the year 2019, till date not a single witness has been examined. Thus, even after more than five years of framing of charges and despite the liberty granted by this Court earlier, the prosecution has not succeeded in commencing the recording of evidence. The position of the trial remains static and unaltered, which squarely satisfies the condition laid down in the earlier order.

4. This Court also cannot overlook the fact that the applicant has undergone incarceration for a period of approximately 7 years and 2 months as an undertrial prisoner. The right to speedy trial is a fundamental right guaranteed to every accused under Article 21 of the Constitution of India, and an indefinite continuation of pre-trial detention, without actual commencement of trial, would amount to a gross violation of the said right. The Supreme Court in various judgments, including *Hussainara Khatoon v. State of Bihar* (1980) 1 SCC 81, has emphasized that prolonged pre-trial detention is unjust and unconstitutional, especially in cases where the trial shows no signs of progressing.

5. In view of the above circumstances — particularly, (i) the applicant having spent more than 7 years in judicial custody without trial having commenced, (ii) no change in the factual situation since the earlier rejection order, and (iii) the clear mandate of Article 21 regarding right to speedy trial — this Court

is of the considered opinion that the applicant deserves to be enlarged on bail.

ORDER

- (a) The application is allowed.
- (b) The applicant is directed to be released on bail in connection with C.R. No.296 of 2018 registered with Tulinj Police Station, on his executing P.R. Bond of ₹50,000/- (Rupees Fifty Thousand Only) with one or more sureties in the like amount.
- (c) The applicant shall report to the concerned police station once in a month.
- (d) The applicant shall not tamper with the evidence or attempt to influence any witness.
- (e) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
- (f) The applicant shall not indulge in any criminal activity during the pendency of the trial.

(AMIT BORKAR, J.)