

Shabnoor

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

BAIL APPLICATION NO. 3299 OF 2025

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Ratanlal @ Ratna Mulchand Kothari	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Chaitanya Purankar, for the applicant.

Mrs. Mahalakshmi Ganapathy, APP for the State –
respondent.

Mr. R. P. Shinde, PSI, Bhiwandi Police Station is
present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 21, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release in connection with Crime Register No. 111 of 2015 registered with Nizampura Police Station. The applicant is charged for offences punishable under Sections 302, 394, 341, 120-B, 450 and 34 of the Indian Penal Code, 1860, under Sections 37(1) read with 135 of the Mumbai Police Act and Sections 4, 25(1B)(b) of the Indian Arms Act.

2. The case of the prosecution, in brief, is that accused No.4 was working as a cook with accused No.1. It is alleged that accused No.1 and her husband (the deceased) had a strained

matrimonial relationship and were often involved in quarrels. It is on this background that accused No.1 approached accused No.4 for help. Accused No.4 then contacted accused No.5 to facilitate the plan. Thereafter, accused No.5 introduced accused Nos.2 and 3, who are alleged to be hired contract killers, to accused No.1. Accused No.5 was aware of the intentions of accused No.1. It is further the case that accused Nos.2 and 3 were hired by accused No.1 to eliminate her husband and in furtherance of this conspiracy, the crime came to be executed. On these allegations, the FIR was lodged against the present applicant along with the co-accused.

3. Learned Advocate for the applicant has submitted that the applicant was arrested on 20th June 2015 and since then he has remained in custody for a period of 10 years. It is submitted that the applicant has undergone substantial incarceration without the conclusion of trial. Attention of this Court has been invited to the fact that a co-accused has already been released on bail by a Coordinate Bench of this Court in Bail Application No. 3175 of 2023, vide order dated 2nd November 2023, primarily on the ground of prolonged incarceration. On the principle of parity, the applicant seeks release on bail. It is further submitted that continued detention of the applicant would offend the right to speedy trial guaranteed under Article 21 of the Constitution of India.

4. Per contra, learned APP has opposed the application and submitted that the allegations against the applicant are of a very serious nature, involving a premeditated conspiracy for murder. It

is further submitted that the prosecution has cited 39 witnesses, out of which only 9 have been examined so far. The delay in trial is attributed to heavy pendency before the Trial Court and not to the conduct of the prosecution. Learned APP, therefore, prays that instead of granting bail, directions may be issued to the Trial Court to expedite the trial and conclude it within a time-bound period.

5. I have carefully considered the submissions advanced on behalf of both sides. The applicant is in custody since 20th June 2015 and has completed about 10 years of imprisonment without conclusion of the trial. The charge is undoubtedly serious in nature, involving Sections 302 and 120-B of IPC, however, it is a settled principle that the seriousness of the offence alone cannot be a ground to indefinitely deny bail, particularly when the trial is not likely to conclude in the near future.

6. The record shows that the prosecution has cited 39 witnesses, of which only 9 have been examined so far in the last ten years. Even if the trial is expedited now, it will take a considerable amount of time for its completion. The delay, therefore, results in prolonged incarceration of the applicant, which directly impacts his fundamental right to speedy trial under Article 21 of the Constitution of India.

7. The Supreme Court in *Hussainara Khatoon and Others v. Home Secretary, State of Bihar* [(1980) 1 SCC 81] has observed that the right to speedy trial is part of the fundamental right to life and liberty. Similarly, in *Shaheen Welfare Association v. Union of India* [(1996) 2 SCC 616], the Apex Court held that undertrials

who remain incarcerated for long periods deserve to be released on bail, balancing both the seriousness of the offence and the right to liberty. More recently, in *Union of India v. K.A. Najeed* [(2021) 3 SCC 713], the Supreme Court reiterated that once the period of incarceration becomes unduly long and the trial unlikely to conclude soon, constitutional courts are empowered to grant bail to uphold Article 21 rights.

8. In the present case, a Coordinate Bench of this Court has already granted bail to a co-accused on the ground of prolonged incarceration. On the principle of parity also, the present applicant cannot be treated differently. The fact that the applicant has undergone 10 years of incarceration without adjudication of guilt tilts the balance in his favour.

9. Having regard to these circumstances, I am of the view that no useful purpose would be served by continuing the applicant in custody indefinitely. His liberty can be safeguarded by imposing stringent conditions.

10. In view of the above discussion, the following order is passed:

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime Register No. 111 of 2015 registered with Nizampura Police Station, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the

following conditions:

(a) The applicant shall attend the Investigating Officer of Nijampura Police Station once in a week, every Sunday of the week between 11:00 a.m. and 1:00 p.m.

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

(c) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(d) The applicant shall not leave the Thane District after being released on bail, till the trial concludes.

(e) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

11. The Bail Application is disposed of in above terms.

(AMIT BORKAR, J.)