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927ba1473.25

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

927 BAIL APPLICATION NO. 1473 OF 2025

MONUSINGH JAGDISHSINGH BAVARI

....Applicant

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....Respondents

Mr. Jitendra Patil, Advocate for the applicant

Mr. C. V. Bhadane, APP for the respondents/State

CORAM : RAJNISH R. VYAS, J.

DATE : 18th MARCH, 2026

PER COURT :

1. Heard.

2. Only ground pressed in this bail application is regarding long incarceration.

3. The learned Advocate for the applicant has contended that offence in question was registered on 26-10-2022, so also the arrest of the applicant. According to him, neither the charge was framed when the bail application was filed nor any steps were taken by the prosecution to take the prosecution logical end. He then invited my attention to the order passed by this court on 18-02-2026 by which, the Registrar (Judicial) was requested to seek status report from the concerned court. According to him, though now the charge

is framed, the fact remains that since more than 60 witnesses are cited by the prosecution in the charge-sheet which will further delay the trial. He, therefore, submitted that his client be released on bail.

4. Per contra, the learned APP has submitted that in compliance with the order dated 18-02-2026 the concerned court has submitted its status report on 27-02-2026 and has categorically stated that charge in the matter was framed on 06-11-2025 and thereafter, the progress had taken place and consequently, the matter was posted for the evidence on 09-03-2026. However, crime property was not received.

5. It is in this background the learned APP submitted that just because the applicant is behind the bar since last four years, that would not be a ground *ifso facto* to release him on bail.

6. It is necessary to mention here that after registration of the First Information Report on 26-10-2022, the applicant was immediately arrested on that day. The bail application was filed before this court on 25-07-2025. The report submitted by the District & Additional Sessions Judge, Jalgaon dated 27-02-2026 shows that out of the accused persons in the present crime, two accused including present applicant were lodged in the jail. The jail authority had applied to transfer the accused Monusingh/applicant to the

Central Prison, Nashik as his activity in the jail was not proper. Considering the said fact, the permission was granted for transferring the applicant. The report further shows that on 06-11-2025, the charges were framed and thereafter notice under Section 330 of the Bhartiya Nagrik Suraksha Sanhita was given and on 07-02-2021⁶ the accused did not admit the relevant documents.

7. The prosecution then proceeded in accordance with law and consequently case was fixed for evidence on 09-03-2026. The report shows that on that day Muddemal was not produced and therefore, program could not be fixed. Report further points out that till September, 2025, the accused persons were filing the bail application one after another and on 26-09-2025 the accused No.1 did not press his application for bail. It was also stated that considering the behavior of the accused in jail at Jalgaon, he was shifted to the Central Prison, Nashik and again on 23-02-2026 a letter was received from the District Prison, Jalgaon wherein a request was made to transfer the present applicant to Central Prison, Nashik. It was also stated that the not only Superintendent of Prison was threatened with dire consequences but also his family. The report shows that therefore, the concerned authorities had informed about danger to their life.

8. At this stage, it is necessary to mention here that

pendency of the bail application would not stop the court from proceeding with the matter. The record of the case shows that the applicant along with others are charge-sheeted for commission of offences punishable under Sections 143, 147, 148, 149, 302, 307, 326 of the IPC and Section 3(I)(II), 3(2), 3(4) of the MCOC Act. As pointed out by the learned APP that present applicant has more than 18 cases which are registered against him and said chart is reproduced below :

Sr. No.	Police Station	Crime No.	Sections
1.	Jhilhapeth PS	161/2013	294,323,336,337,427,510,506 of the IPC
2.	MIDC PS	304/2017	306,452,143,147,149,504,506 & 427 of the IPC
3.	MIDC PS	203/2018	324,323,504,506 & 34 IPC
4.	MIDC PS	228/2018	454,457 & 380 IPC
5.	MIDC PS	277/2018	380,454 IPC
6.	MIDC	711/2018	309,294,427 & 506 IPC
7.	Jhilhapeth PS	295/2019	380,457,411 & 34 IPC
8.	MIDC PS	355/2019	307, 143,147 IPC
9.	Jhilhapeth PS	414/2019	309,511 IPC
10.	MIDC PS	558/2019	380,454,457 IPC
11.	MIDC PS	729/2019	380,454,457 IPC
12.	Jalgaon City PS	42/2020	309, 294, 427, 506 IPC
13.	MIDC PS	61/2020	380,457,34 IPC
14.	MIDC PS	162/2020	399,402 IPC & 3/25 Arms Act
15.	MIDC PS	973/2020	142 Mah. Police Act
16.	MIDC PS	1051/2020	395,397,456,393 IPC & 142 Mah. Police Act
17.	Muktainagar PS	357/2021	380, 457 IPC
18.	MIDC	769/2022	302,307,326,147,149, 120(b) IPC and 3(i)(ii), 3(2), 3(4) MCOC

9. So aforesaid chart speaks volume for itself. As far as incident in question is concerned, the prosecution has categorically stated that the applicant No. 2 along with accused No. 1, on the day of incident, had assaulted one Sanjay Tak by means of knife. Three more persons were also injured including one Baggasing. The incident dated 25-10-2022 was out come of earlier incident dated 24-10-2022. The incident dated 24-10-2022 pertains to bursting of crackers by the accused party and dispute to that effect. Thus, the fact of applicant assaulting the injured/ the deceased is clear from the various statements brought on record. It is well settled principle of law that not only the rights of accused are required to be honored, but also due regard is to be shown to the victim of the crime.

10. The learned Advocate for the applicant has relied upon the judgment of the Hon'ble Apex Court in the case of Javed Gulam Nabi Shaikh Vs State of Maharashtra in Appeal No. 2787/2024 dated 03-07-2024 decided by the Hon'ble Apex Court more particularly, para 8,9,10 and 11 which reads as under:

8. Having regard to the aforesaid, we wonder by what period of time, the trial will ultimately conclude. Howsoever serious a crime may be, an Accused has a right to speedy trial as enshrined under the Constitution of India.

9. Over a period of time, the trial courts and the High Courts have forgotten a very well settled principle of law

that bail is not to be withheld as a punishment.

10. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in Gudikanti Narasimhulu and Ors. v. Public Prosecutor, High Court reported in MANU/SC/0089/1977MANU/SC/0089/1977 : 1977:INSC:232 : (1978) 1 SCC 240. We quote:

What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R v. Rose, (1898) 18 Cox]:

I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial.

11. The same principle has been reiterated by this Court in Gurbaksh Singh Sibba v. State of Punjab reported in MANU/SC/0215/1980MANU/SC/0215/1980 : 1980:INSC:68 : (1980) 2 SCC 565 that the object of bail is to secure the attendance of the Accused at the trial, that the proper test to be applied in the solution of the question whether bail should be granted or refused is whether it is probable that the party will appear to take his trial and that it is indisputable that bail is not to be withheld as a punishment.

11. The learned Advocate for the applicant has contended that pre-trial custody cannot be by way of punishment. Gist of the aforesaid judgment is the same that howsoever serious a crime may be an accused has a right to speedy trial under the Constitution of

India. Second judgment which is relied upon by the counsel for the applicant is Union of India Vs K. A. Najeeb in Criminal Appeal No.98 of 2021 decided on 01-02-2021 by the Hon'ble Supreme Court more particularly para 18 which reads as under:

18. It is thus clear to us that the presence of statutory restrictions like Section 43D (5) of UAPA perse does not oust the ability of Constitutional Courts to grant bail on grounds of violation of Part III of the Constitution. Indeed, both the restrictions under a Statue as well as the powers exercisable under Constitutional Jurisdiction can be well harmonised. Whereas at commencement of proceedings, Courts are expected to appreciate the legislative policy against grant of bail but the rigours of such provisions will melt down where there is no likelihood of trial being completed within a reasonable time and the period of incarceration already undergone has exceeded a substantial part of the prescribed sentence. Such an approach would safeguard against the possibility of provisions like Section 43D (5) of UAPA being used as the sole metric for denial of bail or for wholesale breach of constitutional right to speedy trial.

12. The crux of the aforesaid judgment is that the long incarceration of the accused is not in the interest of justice and constitutional court, can exercise their powers to direct the release of the applicant on that ground. The learned Advocate for the applicant has also invited my attention to the judgment passed by the coordinate bench of this court in the case of Vikas Chandrakant Patil Vs State of Maharashtra in Bail Application No. 1963/2025 decided on 09-05-2025, more particularly, para 34.1 to 34.9 which reads as under:

34.1. In the case of Avinash Ashok Torane Vs. The State of Maharashtra⁸, this Court (Coram: N.J. Jamadar, J.) while dealing with a bail application for offence under Section 302 of IPC considering parity with another co-accused who was enlarged on bail considered the unlikelihood of completion of trial coupled with the period of long incarceration of 1 year 3 months of the Applicant and enlarged him on bail.

34.2. In the case of Sonu Parmeshwar Jha Vs. The State of Maharashtra⁹ this Court (Coram: M.S. Karnik, J.) was dealing with a bail application for offences under Sections 302 and 304(b) of IPC and considering circumstantial evidence against the accused as well as long incarceration of accused of 1 year 7 months enlarged him on bail.

34.3. In the case of Rup Bahadur Magar @ Sanki @ Rabin Vs. State of West Bengal¹⁰, in a case under Sections 394, 395, 397, 307 read with 120-B of IPC, the Supreme Court granted bail to the accused considering long incarceration undergone by him of 2 years and 9 months.

34.4. In the case of Santosh Ramprasad Hairijan Vs. The State of Maharashtra¹¹, in a case under Section 302 of IPC this Court taking into account long period of incarceration undergone by accused of 3 years 4 months granted him bail.

34.5. In the case of Javed Gulam Nabi Shaikh (supra), the Supreme Court while granting bail to accused incarcerated for 4 years in paragraph Nos. 16 and 17 held as under:-

"16. Criminals are not born but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when

dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.

17. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime."

34.6. In the case of Balwinder Singh Vs. State of Punjab and Anr.12, in a case under Sections 302 and 307 of IPC the Supreme Court granted bail to the accused who was behind bars for 4 years citing unlikelihood of completion of trial in the near future as also on parity with the co-accused.

34.7. In the case of Roland Victor Monterio Vs. State of Maharashtra13, this Court (Coram: N.J. Jamadar, J.) in a case under Sections 302, 304-B and 498-A of the IPC granted bail to the accused on account of his long incarceration of 4 years. Similarly in the case of Naresh Harishchandra Mali Vs. The State of Maharashtra14, this Court (Coram: N.J. Jamadar, J.) in a case under Sections 302 and 307 of IPC granted bail to the accused as he was in prison for a period of more than 5 years.

34.8. Recently, the Delhi High Court in the case of

*Raghvendr Singh Vs. State of NCT of Delhi
MANU/DE/0032/2025MANU/DE/0032/2025
granted bail to the Accused who was indicted for
offence of murder citing his long incarceration for
a period of 5 and half years and enlarged him on
bail.*

*34.9. In the case of Chintan Vidyasagar Upadhyay
Vs. The State of Maharashtra¹⁵, in a case under
Sections 302 and 396 of IPC the Supreme Court
granted bail to the accused who had undergone 6
years of pre-trial incarceration. Similarly in the
case of Indrani Pratim Mukerjea Vs. Central
Bureau of Investigation¹⁶ the Supreme Court in a
case under Section 302 of IPC granted bail to the
accused, she having undergone pre-trial
incarceration of 6 and a half years.*

13. The learned Advocate for the applicant has argued that this court by taking into consideration the length of sentence which is undergone, released the applicant therein on bail. Sum and substance of the argument of the applicant is that long incarceration creates a right in his favour to seek a bail. He submits that there is no fault on the part of the applicant for delaying the trial and therefore, in the aforesaid background he be released on bail.

14. So far as the prima facie case is concerned i.e. it is already discussed in the earlier part of the judgment. So far as long incarceration is concerned, it is also observed that though the speedy trial is right of the accused at the same time agony of the victim

cannot be ignored, balance approach will have to be taken. In this regard, it is necessary to mention here that Hon'ble Apex Court in the case of Neeraj Sehrawat Vs State of NCT of Delhi reported in 2025 SCC OnLine Del 107 has held that long incarceration cannot be the only factor for granting of bail. Prima facie criminal, antecedents will also have to be looked into. Relevant observations are as follows:

19. Upon applying its mind to the submissions made by the parties, as well as what is borne-out from the record, in the opinion of this court the following inferences clearly arise :

19.1. The petitioner"s contention that his history-sheet or criminal antecedents cannot be the prevailing criterion to deny him regular bail, is hard to accept. As pointed-out by the State despite the petitioner having been acquitted or discharged in several other cases, the chronology of events shows that the 03 cases in which he was convicted relate to offences which the petitioner committed while he was on bail in other cases. This is proof-positive that the petitioner has serious proclivity to commit offences and the apprehension of the State in that regard is not merely speculative or hypothetical but the petitioner has shown it to be so by his own conduct.

19.2. The petitioner"s argument that the Supreme Court has set-

down the judicial trend that prolonged incarceration cannot be permitted to become punishment without trial; and that „bail is the rule and jail is the exception" regardless of the seriousness of the crime alleged, is also facetious, since in applying those principles the court must bear in mind the fate of the family of the victims and the faith of the community in the process of justice. Though it is true that a court must lean towards constitutionalism, and the right of an accused to a

speedy trial as derived from [Article 21](#) of the Constitution, is an overarching and sacrosanct consideration, mere delay in trial is not sufficient to warrant a finding that the petitioner has been deprived of his right to speedy trial; and delay is only one of the factors to be considered before deciding to enlarge the petitioner on bail, and that factor is to be weighed against several other factors. 17 In the present case, the delay in conducting trial has been occasioned inter-alia by the fact that 03 of the co-accused persons had absconded while on bail; which is certainly a factor to be considered by this court. 19.3. Though in the present case the petitioner has suffered judicial custody of over 09 years as an undertrial, and it is not clear as to how long the trial would take to conclude, as contended by the State, the petitioner is stated to be the head of the dreaded „Neeraj Bawania Gang“, and therefore, regardless of how long [Ranjan Dwivedi](#) (supra) he may have been in jail in the present case, this court is not persuaded to accept that if enlarged on bail, the petitioner would not indulge in criminality again and would not be a threat to the society at large. Moreover, by his past conduct the petitioner has demonstrated that even conditions imposed while granting him bail would not dissuade him from indulging in criminality.

19.4. There is also no doubt that the well-worn principles for grant of bail are not to be applied blindly or mindlessly, and the court must use its discretion to grant or deny bail in a judicious manner and not as a matter of course; and the petitioner"s fundamental right to liberty must be balanced against the interests of the society,¹⁸ since even constitutional rights are not absolute.

19.5. When viewed through this prism, it would be naïve of this court to take a unidimensional view of the matter - focusing only on the petitioner"s right to a speedy trial, while ignoring other extremely germane factors and considerations as discussed above - and to grant to the petitioner regular bail based only on the period of custody undergone as an undertrial in case FIR No.1683/2015.

19.6. The court cannot ignore that though there has

been delay in conducting trial in the subject FIR, that notwithstanding, the [Chandrakeshwar Prasad](#) (supra) length of delay is only one of the factors to be considered and that factor must be weighed against other factors.¹⁹ 19.7. Insofar as the argument that the interests of the society can be balanced with the petitioner's right to liberty by imposing requisite conditions while enlarging the petitioner on regular bail, it must be appreciated, that as aptly observed by the Supreme Court in [Ash Mohammad](#) (supra), there needs to be a proper analysis of the criminal antecedents of an accused and the question of imposing conditions is a matter that is subsequent to the decision to grant bail.

20. In the present case the record shows that the petitioner has committed heinous offences while he was on bail in other cases; and he has been convicted in the offences committed while on bail. When there is a long list of serious criminal involvements, including convictions for offences committed while on bail in other cases, the apprehension that the petitioner suffers from recidivism cannot be dismissed as imaginary. In that view of the matter, the petitioner's submission that he has served sentence for those crimes offers scant comfort to the court that no one else will be harmed by the petitioner if he is enlarged on bail this time.

21. It is also settled law, that bail can justifiably be denied when there is real risk of repeat offences being committed. [Sections 437](#) and [439](#) of the Cr.P.C. contemplate that contingency.

15. Though in the charge-sheet 60 witnesses are cited it is not even the case of the prosecution that all 60 witnesses would be examined. The offences are punishable with death and record shows that there is no delay in conducting the trial. Since charges are already framed, I am not inclined to entertain the present application. At the same time, the right of the accused is also required

to be protected. In that view of the matter, following order is passed:

ORDER

- a] The application is rejected.
- b] The trial court is directed to submit the status report every six months to this court.

[RAJNISH R. VYAS, J.]

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