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**IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPLICATION (BAIL) NO.66 OF 2025**

GAURAV BIDRE

...APPLICANT.

VS

STATE OF GOA THROUGH

PUBLIC PROSECUTOR

AND OTHER

...RESPONDENTS.

Mr. Sangram Desai, Mr Rohan Dessai, Ms Janhavi Dudhwadkar, Ms Sanjana Desai, Ms Arya Parikar and Ms Ashwini Bandekar, Advocates for the Applicant/Appellant.

Mr Shailendra G. Bhobe, Public Prosecutor for Respondent nos.1 and 2.

Mr L. Raghunandan, Advocate through VC for the Respondent no.3 under Legal Aid.

CORAM:- SHREERAM V. SHIRSAT, J.

DATED:- 8th January 2026

P.C.:

1. This is the fourth application for Bail filed by the Applicant before this Court, who has been charged for the offences under section 365, 342, 302 and 201 of the IPC. The earlier bail application has been rejected by this court on 6/11/2023 after taking into consideration the material on record in the chargesheet. The second bail application was filed on the ground that the trial is

not progressing and no trial programme is fixed. The said application was withdrawn vide order dated 23/4/2024 with liberty to move the bail application before the trial court on the aforestated grounds.

2. Thereafter the Applicant filed an application for bail before the trial court and even the witnesses were being examined before the trial court. It is informed to the Court that till date 4 witnesses have been examined.

3. This Court vide order dated 6/11/23 has rejected the bail application after taking into consideration the merits of the case and therefore in the absence of any change in circumstances, as far as merits of the case are concerned, this application cannot be entertained on the same grounds.

4. The second contention raised by the Ld. Counsel for the Applicant is that the Applicant is in custody since 24/6/22 and that there is delay in conducting the trial, which infringes his fundamental right to speedy trial as enshrined under Article 21 of the Constitution of India and therefore on this count itself the applicant deserves to be released on bail. The Ld. Counsel has further submitted that expediting trial is not the option, but if the trial is going to take a long time to conclude than the accused has to be released on bail

5. In support of the contention, the Ld. Counsel for the applicant has relied upon the following authorities.

6. In ***Javed Gulam Nabi Shaikh V/s State of Maharashtra and another*** in Criminal Appeal No. 2787 of 2024, wherein it is observed as under:

“18 Criminals are not born out 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.”

“19 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.”

Rup Bahadur Magar @ Sanki @

Rabin V/s State of West Bengal in

Criminal Appeal No. 4144 of 2024,

wherein it is held by the Apex Court that:

“We have repeatedly observed that while rejecting bail applications, the High Courts are passing the orders directing disposal of trials within a time schedule. Apart from the fact that such directions are contrary to the law laid down by the Constitution Bench in the case of High Court Bar Association, Allahabad vs. State of U.P. & Ors.¹, such orders put undue pressure on the Trial Courts which are already flooded with a lot of work. Unless the factual situation is extraordinary and exceptional, the High Courts should refrain from passing such orders, as held by the Constitution Bench in the aforesaid judgment.”

7. The Ld. Counsel for the Intervener has submitted that the offence is very serious and there is an apprehension that if the Applicant is released on bail, he may coerce or pressurise the witnesses and therefore prayed that the bail application be rejected. He has further submitted that apart from the period of

incarceration there are other factors such as gravity of the offence, propensity of the offender which also needs to be taken into consideration. The Ld. Counsel also submitted that there is one another criminal case pending against the Applicant under section 354, 354(a) and 509 IPC. In support of the contention, the Ld. Counsel has relied upon following judgments :

Kalyan Chandra Sarkar V/s Rajesh Ranjan alias Pappu Yadav and another reported in **(2004) 7 Supreme Court Cases 528**, wherein it is held that:

“14. We have already noticed from the arguments of learned counsel for the appellant that the present accused had earlier made seven applications for grant of bail which were rejected by the High Court and some such rejections have been affirmed by this Court also. It is seen from the records that when the fifth application for grant of bail was allowed by the High Court, the same was challenged before this Court and this Court accepted the said challenge by allowing the appeal filed by the Union of India and another and cancelled the bail granted by the High Court as per the order of this Court made in Criminal Appeal No. 745 of 2001 dated 25-7-2001. While cancelling the said bail this Court specifically held that the fact that the present accused was in custody for more than one year (at that time) and the further fact that while rejecting an earlier application, the High Court had given liberty to renew the bail application in future, were not grounds envisaged under Section 437(1)(i) of the Code. This Court

*also in specific terms held that the condition laid down under Section 437(1)(i) is sine qua non for granting bail even under Section 439 of the Code. In the impugned order it is noticed that the High Court has given the period of incarceration already undergone by the accused and the unlikelihood of trial concluding in the near future as grounds sufficient to enlarge the accused on bail, in spite of the fact that the accused stands charged of offences punishable with life imprisonment or even death penalty. In such cases, in our opinion, **the mere fact that the accused has undergone certain period of incarceration (three years in this case) by itself would not entitle the accused to being enlarged on bail, nor the fact that the trial is not likely to be concluded in the near future either by itself or coupled with the period of incarceration would be sufficient for enlarging the appellant on bail when the gravity of the offence alleged is severe** and there are allegations of tampering with the witnesses by the accused during the period he was on bail.”*

“21. For the reasons stated above, we are of the considered opinion that the High Court was not justified in granting bail to the first respondent on the ground that he has been in custody for a period of 3 1/2 years or that there is no likelihood of the trial being concluded in the near future, without taking into consideration the other factors referred to hereinabove in this judgment of ours.”

***Rajesh Ranjan Yadav alias Pappu Yadav V/s
CBI through its Director, reported in (2007) 1
Supreme Court Cases 70, wherein it is held as under:***

“10. In our opinion none of the aforesaid decisions can be said to have laid down any absolute and unconditional rule about when bail should be granted by the Court and when it should not. It all depends on the facts and circumstances of each case and it cannot be said that there is any absolute rule that because a long period of imprisonment has expired bail must necessarily be granted.”

8. The Ld. PP has submitted that this bail application should not be entertained as earlier this court has rejected the bail application on merits and that there is no inordinate delay in conducting the trial. He submitted that the trial court is taking efforts to adhere to the trial programme that has been fixed. He has relied upon the following judgment to buttress his submissions that delay in trial though regrettable is not by itself a ground for bail in cases involving grave and serious offences, particularly where the evidence links the accused to the commission of crime. The Ld. PP has relied upon the following judgment in support of his contention.

Vishan Singh V/s State of NCT of Delhi in Bail Application No. 2100/2025, wherein it is observed as under:

“ 4. The right to speedy trial, though a valuable constitutional protection under Article 21, cannot be stretched to a point where it overshadows the overwhelming circumstances of guilt that stand against the accused at this stage. Delay in trial, though regrettable, is not by itself a ground for bail in cases involving grave and heinous offences, particularly where the evidence links the accused to the commission of the crime. It is well settled that though bail is the rule and jail an exception, the nature and gravity of the offence, the role attributed to the accused and the societal impact of releasing an accused charged with heinous offences are relevant considerations which cannot be overlooked.”

9. I have heard respective counsels and have also gone through the authorities relied upon by them.

10. There cannot be any doubt about the authorities relied and the propositions canvased by the applicant, that there is right to speedy trial which is a fundamental right. However, here it is not the case where trial has not commenced at all and that there is no

possibility of trial concluding in the near future. The trial court, with other matters on the board to deal with, is making a steady headway in the trial and has so far examined 4 witnesses and a trial program is also on record now, which is filed with the consent of the Ld. Counsel for the Applicant, Ld. Public Prosecutor and under the guidance of and in consultation with the presiding judge of trial court where the trial is pending. The trial programme mentions the schedule of dates as to when the witnesses would be examined and how many witnesses will be examined. Therefore, now there is a definitive trial program outlined.

11. The Ld. Counsel for the applicant is apprehensive that there would be an inordinate delay in concluding the trial and the trial may not proceed as per the schedule mentioned in the trial program. However, such presumptions need not be made now at this stage when the trial court is taking pains to examine the witnesses and proceed with the trial. No doubt as per the roznama, earlier the trial was not progressing at a fast pace and there was no clarity as to when the trial would get over. However, without going into the details of the roznama to find out who is responsible for the delay, now with the trial programme placed on record, there is a fair assessment as to when the trial is likely to get over considering the number of witnesses required to be examined.

12. It also needs to be mentioned that sufficient and proper opportunity is also required to be given to the trial court to conduct trial in a fair manner and not to put fetters and hasten up just to conclude the trial which can be detrimental, both to the prosecution as well as to the defence. The offence with which the applicant is charged is a serious offence and therefore adequate opportunity needs to be given to the trial court as well, to conduct the trial in a proper manner. It would have been a different case, if the trial would not have commenced till date and no witnesses would have been examined, which is not the case, as the prosecution has examined 4 witnesses, albeit delay. It cannot be said that there is an absolute rule that because there is a long period of incarceration, bail must necessarily be granted, especially in a serious offence like the present one with which the applicant has been charged.

13. I have also gone through the authorities relied upon by the respective counsels. In the case of ***Javed Gulam Nabi Shaikh v State of Maharashtra***, (supra) the facts were such that the appellant in that case was in jail for a period of 4 years and even the charge was not framed and there were not less than 80 witnesses which were cited by the prosecution to be examined. It was on this backdrop that the Hon'ble Apex Court had expressed concerned as to when the trial would be concluded. The facts of the present case

are different as here the trial has commenced and there is a trial schedule fixed and therefore this ruling will not be of any avail to the Applicant. The other judgment relied by the Ld. Counsel for the Applicant can also be distinguished on the facts of the case where the Apex court was inclined to grant bail as there were no antecedents. The authorities relied upon by the Ld. Counsel for the Intervener and the Ld. Prosecutor are apt to the facts of the case.

14. In view of the above, the bail application stands rejected and the trial court is directed to adhere to the trial program, which has been filed on record with the consent of the Ld. Counsel for the Applicant, Ld. PP and the trial court. The Applicant as well the Prosecution is directed to co-operate with the trial court to adhere to the trial programme and if there is proper co-operation from the parties there is no reason why the trial will not proceed as per the trial program and conclude within stipulated period.

15. Bail application is disposed of.

SHREERAM V. SHIRSAT,J.