Navnath Waghmare (PA)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3006 OF 2025

Nur Moajam Mohamed Anwar …Applicant

Versus

Union of India and Anr …Respondents

Mr. Sudeep Pasbola, Ayush Pasboa for the Applicant.
Ms. Shilpa Gajare, APP for the State
Mr. V.V. G Gangurde, for the Respondent

CORAM: R. M. JOSHI, J.

DATED: 05th MARCH, 2026

PC:-

1. This is an Application filed under Section 439 of the Code of Criminal Procedure for seeking bail in connection with CR. No.39 of 2018 registered with Nani Daman Police Station, District Daman for the offence punishable under section 341, 302, 482, 201, 212, 120(B), r/w 34 of Indian Penal Code (for short '**IPC**') and under Sections 25 and 27 of the Arms Act.

2. It is the case of the prosecution that there was previous enmity between accused Jay Umashankar Pandey (Pakiya) and deceased Ajay Patel over liquor business. Prosecution claimed that pursuant to the conspiracy hatched by the accused persons on 01.04.2018 and incident occurred in which Ajay Patel and

Dhirendra Patel were shot dead, on fateful date Ajay Patel and Dhirendra Patel went to Vapi to attend family function. From there they went to Silvassa. At about 9:00 p.m., they went near Vishal Bar and Restaurant Dabhel, Nani Daman with their relative Chhotubhai. Chhotubhai and Dhirendra Patel got down from the car and went to the beer shop for purchasing beer. Ajay was seating in the car. At that time, 5 to 6 unknown persons came in four wheelers Scorpio Car, Swift Car and One Motorcycle, and they opened fire on Ajay Patel. Ajay got down from the car and ran towards the Vishal bar, Dhirendra followed to help him. The assailants chased them and fired from the fired arms, both were shot dead at the spot. On conclusion of investigation chargesheet came to be filed. The trial commenced in the year 2018 but till date same is not concluded.

3. Learned counsel for the applicant/accused no.1 submits that out of 14 accued , 13 accused are already enlarged on bail either by order of Trial Court, and High Court. It is his submission that even the conspirator i.e. main accused so also the accused who said to have caused actual assault are already enlarged on bail. According to him the applicant came to arrest on 03.06.2018 and since then he is in behind the bar. It is further submission that on parity as well as on long incarceration he is entitled to be enlarged on bail. It is further argued that accused nos. 2 and 7 are attributed with exactly the same role as alleged against the present applicant to apply parity. It is pointed out that they were enlarged on bail by this court, after recording of evidence of P.W.-2 before

the Sessions Court wherein the witness claims to have identified the said accused and also present applicant. It is submitted that the said identification in the court is inconsequential for the reason that admittedly assailants were unknown to the witness and they were wearing helmet at the time of causing of assault. And no identification parade has been conducted in the case. It is his further submission that inspite of the trial being expedited the same is not concluded for a period of 8 years, and which is not likely to get over in short time.

4. Learned special counsel for the respondents opposed the bail on the ground that the offence is serious in nature and in the case of double murder applicant is entitled for bail. According to hi, the women has identified applicant to be the person who was holding long fire arm and caused assault on deceased. It if further argued that the bail can be concluded in next about 4 months and therefore, it is not a case for enlargement of the applicant on bail.

5. There is no dispute about the fact that out of 14 accused persons in this crime, 13 accused are already enlarged on bail, either by order of this Court and Trial Court. The co-accused no. 2 against whom exactly the same role has been attributed is enlarged on bail by this Court by order dated 25.09.2024 passed in Criminal Bail Application No. 603 of 2019. Similarly, by order passed on same day, co-accused were also granted bail. Record indicates that co-accused no. 2 and 7 who were said to have been identified by

eye-witness P.W.2, in his testimony before the Sessions Court are also enlarged on bail on the ground of long incarceration.

6. Though, learned counsel for the respondents submitted that the evidence indicates that the applicant was holding a long gun in his hand, the allegation against the accused nos. 2 and 7 is of exactly same nature that they were also holding fire arms which were fired at the deceased persons. Thus there is absolutely no difference in the role attributed to present applicant as compared to applicant nos. 2 and 7. It is a matter of record that the Trial Court is expedited, however the same is not concluded till date.

7. Though it is sought to be argued on behalf of respondents that the trial is likely to be complete within 4 months, since witnesses are to be examined, there is no possibility of conclusion of the trial within the short time. The applicant is behind the bars for a period of 8 years. This Court finds no reason to not to apply parity, considering long incarceration.

8. Hence, following order.

ORDER

i) Applicant is enlarged on bail in connection CR. No. 39 of 2018 with Nani Daman Police Station, the applicant is directed to be released on bail on his furnishing P.R. Bond in the sum of Rs. 50,000/- with one or two sureties in the like amount.

ii) Before being released on bail, the applicant shall deposit his passport, if any, with the Investigating Officer.

iii) The Applicant shall not leave the jurisdiction of the Nani Daman Police Station without seeking permission from the Trial Court.

Iv) The Applicant shall attend every date in the trial court, unless exempted by the learned trial judge.

v) The Applicant shall attend Nani Daman Police station between 4:00 p.m. to 6:00 p.m. on every Sunday till the conclusion of the trial

vi) The Applicant shall not tamper with the evidence or influence the witness in any manner.

vii) The Applicant shall co-operate with the expeditious disposal of the Trial.

The application stands allowed in the above terms and disposed of.

(R. M. JOSHI, J.)