

Prasad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1624 OF 2025
WITH
INTERIM APPLICATION NO.3218 OF 2025

Diatta Jerome	...Applicant
<i>Versus</i>	
State of Maharashtra	...Respondent

Mr. Kamlesh Satre a/w Vikas Chavan, for the Applicant.
Ms. Veera Shinde, APP for the Respondent - State.

CORAM: R. M. JOSHI, J.

DATED: 25th MARCH, 2026.

PC:-

1. The Applicant seeks his enlargement on bail in connection with CR No. 949 of 2019 registered with the Tulinj Police Station, for offence punishable under Sections 8(c), 21(c) of the Narcotic Drugs and Psychotropic Substances Act, 1985, Sections 12(1) (1A) (b) of the Passports Act, 1967 and Section 14 of the Foreigners Act, 1946, solely on the ground that he is in jail for a period of six years and seven months.

2. Learned counsel for the Applicant submits that the offence charged against the Applicant is punishable with minimum imprisonment of 10 years and in view of the judgment of the Hon'ble Supreme Court in the case of *Supreme Court Legal Aid*

*Committee representing undertrial prisoner v. Union of India and Ors.*¹, the Applicant is entitled for bail.

3. Learned APP opposes the bail application by contending that the trial is in progress and hence considering the seriousness of the crime this would not be a fit case for grant of bail. However, she does not dispute the fact that the minimum sentence prescribed for the alleged offence is 10 years.

4. The Supreme Court in the judgment (cited *supra*) has issued following directions:

“We, therefore, direct as under:

(i) Where the undertrial is accused of an offence(s) under the Act prescribing a punishment of imprisonment of five years or less and fine, such an undertrial shall be released on bail if he has been in jail for a period which is not less than half the punishment provided for the offence with which he is charged and where he is charged with more than one offence, the offence providing the highest punishment. If the offence with which he is charged prescribes the maximum fine, the bail amount shall be 50% of the said amount with two sureties for like amount. If the maximum fine is not prescribed bail shall be to the satisfaction of the Special Judge concerned with two sureties for like amount.

(ii) Where the undertrial accused is charged with an offence(s) under the Act providing for punishment exceeding five years and fine, such an undertrial shall be released on bail on the term set out in (i) above provided that his bail amount shall in no case be less than Rs 50,000 with two sureties for like amount.

1 (1994) 6 SCC 731

(iii) Where the undertrial accused is charged with an offence(s) under the Act punishable with minimum imprisonment of ten years and a minimum fine of Rupees one lakh, such an undertrial shall be released on bail if he has been in jail for not less than five years provided he furnishes bail in the sum of Rupees one lakh with two sureties for like amount.

(iv) Where an undertrial accused is charged for the commission of an offence punishable under Sections 3 1 and 3 1 A of the Act, such an undertrial shall not be entitled to be released on bail by virtue of this order.”

5. Over and above the fact that the trial is in progress, a perusal of the Roznama indicates that it is progressing at snail's pace. There are thirteen more witnesses which the prosecution intends to examine. This Court therefore finds no reason to accept that the trial is likely to be concluded in a short period of time. Hence, following the judgment of the Hon'ble Supreme Court, following order is passed.

ORDER

- i) The Bail Application is allowed.
- ii) In connection with C.R. No.949 of 2019 registered with the Tulinj Police Station, the Applicant be enlarged on bail on furnishing PR Bond of Rs.30,000/- with one surety in the like amount, to the satisfaction of the Trial Court.
- iii) The Applicant shall not tamper with or interfere with the prosecution evidence in any manner whatsoever.
- iv) The Applicant shall appear before the Trial Court on every date of hearing, unless prevented by sufficient cause.

6. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(R. M. JOSHI, J.)