

ORDER BELOW EXH. NO. 13 IN**Session Case N. 19/2024**

(The State of Maharashtra Vs. Shailesh Arun Waghode)
(CNR NO.: MHAK-05-000216-2024)

This is an application for bail under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023. The applicant is arrayed as an accused in Crime No.372/2023 registered with Dahihanda Police Station for offences punishable under sections 376, 452, 509, 323, 506 of Indian Penal Code,1860.

Prosecution case, in brief, is as under :

2. This is second application for bail. The application is prays only on a ground of delay in trial. The earlier bail application has been rejected by this Court *vide* order dated 08.05.2024.

3. The relevant chronology to assess merits of the application is as follows.

- Date of incident is 25.12.2023
- Date of arrest 28.12.2023
- Date of completion of investigation 11.03.2024
- Date of committal 26.03.2024
- Date of permitting charge 23.08.2024

4. According to the applicant/accused, he is falsely implicated in this case, and the muddemal has not yet been received. There has been no progress in the trial. The right to bail is a constitutional right of the accused. The applicant is a permanent resident of the village Patsul, taluka Akot. If released on bail, he would not pressurize the witnesses. The FIR is preceded by an intention to grab money. There is a

longstanding rivalry between the informant/victim and the applicant. The story projected in the FIR is improbable. There is no prima facie case against the accused, and there is a delay in lodging the FIR. The accused has a family dependent on him. He has been behind bars for more than one year. He is ready to abide by any conditions that may be imposed by this Court. Accordingly, the applicant/accused prays for bail.

5. The State/Prosecution resisted the application by submitting that, the accused had done the most perverse and heinous crime. His earlier bail application has been rejected. If the applicant is released on bail, he would pressurize the witnesses. The bail application which was moved by the applicant before the Hon'ble High Court, Bombay, Bench at Nagpur has not been pressed and withdrawn. There is no substance in the application. The application as such be rejected.

6. Heard Ld. advocate for the applicant and Ld.APP for the State Prosecution. Perused the available material.

7. Points for determination and findings thereon are as follows :

	POINTS	FINDINGS
1.	Whether the applicant is entitled to bail on the ground of delay in trial?	No
2.	What order ?	The application is rejected.

REASONS

AS TO POINT NOS.1 AND 2 :

8. While appreciating the merits of the application and contentions, it needs to be noted that the chronology mentioned above

shows that there is absolutely no delay whatsoever, either on the part of the prosecution or on the part of the Court, in proceeding with the trial. In fact, the Ld. APP has taken steps to examine witnesses Pawan, Saurabh, and the victim from time to time. The witnesses have not been examined merely because the muddemal is not available. Hence, the informant has not been examined by the prosecution. In this context, the record shows that there has been a lapse of nearly 4 ½ months since the inspection of the trial. This period, in the considered opinion of this Court, is not of such a nature that would entitle the applicant to claim bail.

9. In fact, the prosecution is taking utmost steps to examine the witnesses. It is important to note that the prosecution is working with the police station to produce the muddemal and/or the report of the chemical analyzer. The Ld. APP has placed on record a letter dated 18.02.2025, which shows that the police station is taking all necessary steps to secure the muddemal and the chemical analysis report. Acknowledgment from the Forensic Science Laboratory, Amaravati, dated 04.02.2025, has also been placed on record, confirming that the muddemal has been sent for chemical analysis on an expedited basis and that the report will be submitted at the earliest. This demonstrates that there is no intentional delay on the part of the prosecution in proceeding with the trial. Therefore, the prosecution cannot be blamed for any delay, much less this Court.

10. It is also important to note that the prosecution has been directed to examine other witnesses who have no connection with the muddemal or the chemical analysis report. However, considering the

nature of the offense, it is evident that the victim is the first and most important witness who needs to be examined. The entire prosecution case, as well as the defense, will depend on the testimony of the victim. In order to examine the victim, the identification of the seized articles would be necessary. Unless those articles/muddemal are before the Court, no purpose would be served in examining the victim or other witnesses. Therefore, the trial cannot proceed in the absence of the victim's testimony.

11. To put the dispute at rest as to delay in trial it would be expedient to direct the investigating officer to produce the muddemal and to pursue the report of chemical analysis with forensic science laboratory. Whereby, the trial could proceed in letter and spirit. It is therefore, necessary to reject the bail application with certain observations in this premise. Hence, the order-

ORDER

1.	The application is rejected.
2.	The Ld. APP is directed to gave directions to the investigating officer/Dahihanda police station to pursue the matter with forensic science laboratory to produce muddemal/report of chemical analysis.
3.	Copy of this order be forwarded to Assistant Chemical analyzer, Forensic Science Laboratory, Amravati.

Place :Akot.
Date :25.02.2025.

(B. M. Patil)
Additional Sessions Judge,
Akot.