



ORDER BELOW EXH.137
(Passed on 18.05.2026)

1. This is an application under Section 439 of Code of Criminal Procedure by accused Bablu Maharu Lekami.

2. The fact of case are as under : -

On 05.07.2021 the deceased was found to have been killed. In course of investigation, it was revealed that the deceased was not having good terms with his wife accused Lalita and daughter accused Rohini. Accordingly, accused Lalita, accused Rohini, accused Indrajit and accused Bablu had committed murder of the deceased by means of knife and stick.

3. Learned advocate for accused Bablu submitted that thirteen witnesses have been examined. Charge-sheet has been filed before three years. One of the star witnesses Rahul Sidam did not support the prosecution. Learned advocate for accused Bablu submitted that role of accused Bablu is similar to that

of accused Indrajit. Accused Indrajit has been granted bail by Hon'ble Bombay High Court on the ground that 13 witnesses have been examined and there is delay in trial. According to advocate for accused Bablu, accused Bablu is entitled to benefit of principle of parity. He further submitted that father of accused Bablu is serious. In these facts and circumstances, learned advocate for accused Bablu prayed for released of accused Bablu on bail.

4. As against this learned Additional Public Prosecutor submitted that offence is serious and trial is in progress. Offence punishable under Section 302 of the Indian Penal Code is involved in the present case. He submitted that principle of parity is not applicable and the application deserves to be rejected.
5. From the application, it is clear that earlier two applications filed by accused Bablu have been rejected by this Court. There is no doubt that Hon'ble Bombay High Court has granted bail to accused Indrajit on the ground of delay in trial. However, Hon'ble Bombay High Court in **Vikas Chandrakant Patil vs. State of Maharashtra (2025 BHC-AS 21768)**, in paragraph No.14, it held that where

any trial prisoner suffers incarceration for long period of time and there is no possibility of trial to get concluded within foreseeable future, Constitution Courts can exercise power to release undertrial prisoner on bail. These observations imply that on the ground of delay in trial, the powers are with Constitution Court meaning thereby Supreme Court and High Court. So far as principle of parity is concerned, from order passed by Hon'ble Bombay High Court on application filed by accused Indrajit, it appears that accused Indrajit was granted bail merely on the ground of delay in trial. It appears that the said application was not decided on merit therefore principle of parity cannot be pressed into service. It is necessary that the application is decided on the merits and it is equally necessary that the accused who is seeking bail on the ground of parity played similar role with that of accused who has been granted bail. As observed earlier Hon'ble High Court did not decide application of accused Indrajit on merit. It was decided purely on the ground of delay in trial. Consequently, principle of parity cannot be applied to accused Bablu. Earlier bail applications have been rejected. This Court is not Constitutional Court which has

power of grant bail on the ground of delay in trial. It is also argued that one of the witnesses, namely, Rahul did not support the prosecution. It is to be noted that witness Rahul is son of accused Lalita, therefore, there is nothing unnatural if he sided with accused Lalita and did not support the prosecution. Merely because one of the witnesses did not support the prosecution, entire prosecution's case cannot be doubted. For these reasons, no case is made out for grant of bail. I do not find any merit in the application. Consequently, I pass following order.

ORDER

Application (Exhibit No.137) is rejected.

Aheri.
Date – 18/05/2026.

(Rohan B. Rehpade)
Additional Sessions Judge,
Aheri.