

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,  
NAGPUR BENCH, AT NAGPUR.**

**CRIMINAL APPLICATION (BA) NO. 206 OF 2020**

( Sheikh Mohsin @ Baba s/o Sheikh Musa ..vs.. The State of Maharashtra, through PSO, PS  
Mankapur, District Nagpur )

-----  
Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

-----  
Shri R. Mirza, Counsel for the applicant,  
Shri P.S. Tembhare, Addl.P.P. for the non-applicant.

**CORAM : ROHIT B. DEO, J.**

**DATED : 30-09-2020**

Hearing was conducted through video conferencing and the learned Counsel agreed that the audio and visual quality was proper.

2. Heard.

3. The applicant is in custody since 22-5-2017 in connection with Crime 98/2017 registered with Police Station Mankapur, Nagpur for offence punishable under Section 307 read with Section 34 of the Indian Penal Code.

4. Bail is sought primarily on two grounds.

5. The first ground is that there is undue delay in the trial and the applicant's right to speedy trial enshrined in Article 21 of the Constitution of India is infringed. Two co-accused are released on bail by this

Court on the ground of delay in trial and the principle of parity comes into play. The second ground is that the applicant is seriously ill and the submission is substantiated by referring to the medical record.

6. The learned Additional Public Prosecutor Shri P.S. Tembhare states that while thirty-five witnesses are cited, four witnesses are examined till date. Considering the present scenario, it is, therefore, highly unlikely that the trial will conclude within a reasonable time. It is true that this Court has recorded that the two co-accused had played a relatively less prominent role and that the major role in the assault is played by this applicant. However, considering that the prosecution has invoked Section 34 of the Indian Penal Code, the respective roles played by accused, who according to the prosecution shared common intention, may not be of significant relevance. That apart, while releasing the two co-accused on bail, this Court has recorded a categorical finding that there is undue delay in the trial and that it is highly unlikely that the trial will conclude expeditiously.

7. In my considered view, the applicant is entitled to bail for reasons recorded by this Court in the order dated 09-7-2019 in Criminal Application (BA) 547/2019 (Coram : Rohit B. Deo) and order dated 06-8-2019 in Criminal Application (BA) 635/2019 (Coram : Manish Pitale, J.).

8. The application is allowed.
9. The applicant shall be released on bail on executing personal bond of Rs.25,000/- with a solvent surety of like amount.
10. The applicant shall not make any attempt to tamper with the evidence or influence the witnesses, directly or indirectly.
11. The applicant shall attend each date of hearing of the trial and shall not seek unnecessary adjournments.

**JUDGE**

*adgokar*