



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 1052 OF 2024

Akash s/o Bimbisaar Ingle

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Civil
Lines, Akola

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Counsel for the applicant.

Mr. D. V. Chauhan, Public Prosecutor with Ms. Shamshi Haider, APP for
non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 25/11/2024

1. By this application, the applicant is seeking bail as he came to be arrested on 26/05/2020 in connection with Crime No.138/2020 registered with Police Station Civil Lines, Akola for the offence punishable under Sections 143, 147, 148, 302, 504, 323, 324, 325, 326 read with Section 149 of the Indian Penal Code.

2. The crime is registered on the basis of the report lodged by Sunanda Sanatan Kshirsagar who is the wife of one of the deceased who has alleged that on 24/05/2020 at about 9:00 a.m. there was a quarrel between Jaisen Ingle and her two sons and on that count said Jaisen Ingle have abused her two sons. On 25/05/2020 at about 9:00 p.m., when her younger son came out of the house to answer the

natures call, at the relevant time, she was informed that the co-accused Siddharth Shriram Ingle and the present applicant and the other co-accused followed her son. Therefore, she immediately rushed behind them and she saw that her son was assaulted by the present applicant and the other co-accused. At the relevant time, her elder son and her husband also came there, they were also assaulted by the present applicant and the other co-accused. In the said incident, her husband and her son Vijay have lost their life. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that the applicant is arrested on 26/05/2020 and since then he is behind bar. There is inordinate delay in conclusion of the trial. Though the charges are framed but the trial is not concluded within a short span of time and it will require time. In short his contention is that the trial is delayed and the applicant cannot be kept behind bar for the indefinite period. On the merits also he submitted that as far as the present applicant is concerned, the allegation is in the nature of the general allegation. He submitted that considering all these aspects, the applicant be released on bail. The other co-accused with a similar role is already released on bail.

4. Learned Public Prosecutor strongly opposed the application on the ground that

considering the gravity of the offence wherein two persons have lost their life and in furtherance of common object, the present applicant and the other co-accused have assaulted the deceased and eliminated them. In view of that, the application deserves to be rejected.

5. Learned Counsel for the applicant in support of his contention as far as delay in trial is concerned placed reliance on **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another (Criminal Appeal No.2787/2024 decided on 03.07.2024)** wherein the Hon'ble Apex Court referred the decision of **Hussainara Khatoon Vs. Home Secretary, State of Bihar** reported in **[(1980) 1 SCC 81]** and **Kadra Pahadiya and Ors Vs. State of Bihar** reported in **[(1981) 3 SCC 671]** wherein it is observed that:

"The State or complainant prosecutes him. It is, thus, the obligation of the State or the complainant, as the case may be, to proceed with the case with reasonable promptitude. Particularly, in this country, where the large majority of accused come from and poorer weaker sections of the society, not versed in the ways of law, where they do not often get competent legal advice, the application of the said rule is wholly inadvisable. Of course, in a given case, if an accused demands speedy trial and yet he is not given one, may be a relevant factor in his favour. But we cannot disentitle an accused from complaining of infringement of his right to speedy trial on the

ground that he did not ask for or insist upon a speedy trial.”

6. In another recent decision in **Union of India Vs. K. A. Najeeb [(2021) 3 SCC 713]**, wherein also in para No.15 it is observed by the Hon'ble Apex Court that this Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court **Legal Aid Committee (Representing Undertrial Prisoners) Vs. Union of India [(1994) 6 SCC 731]**, wherein it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. The same ratio is laid down in another decision i.e. **Angela Harish Sontakke Vs. State of Maharashtra [(2021) 3 SCC 723]**, **Sagar Tatyaram Gorkhe and another Vs. State of Maharashtra [(2021) 3 SCC 725]**, **Shaheen Welfare Association Vs. Union of India and others [(1996) 2 SCC 616]**.

7. Thus, in a catena of decisions the right of the accused of a speedy trial is identified by the decisions of the Hon'ble Apex Court.

8. Reverting back to the facts of the present case, though the material in the charge-sheet indicate the applicant participation in the above said crime, however considering the fact that the incarceration of the present applicant as under trial prisoner is more than four and half years and the right of the applicant/accused for speedy trial is definitely affected. Ultimately this is the only answer, which the judicial system can offer to an accused, whose trial is not commenced within four and half years. As a Constitutional Court, nonetheless the duty is cast upon this Court to ensure him his liberty, as a speedy trial has been recognized as integral part under Article 21 of the Constitution of India. In view of that, it would be appropriate to release the applicant on bail by imposing certain conditions. Accordingly, I proceed to pass the following order:

ORDER

(i) The application is allowed.

(ii) The applicant – **Akash s/o Bimbisaar Ingle** in connection with Crime No.138/2020 registered with Police Station Civil Lines, Akola for the offence punishable under Sections 143, 147, 148, 302, 504, 323, 324, 325, 326 read with Section 149 of the Indian Penal Code, be released on bail on executing P.R. Bond in the sum of Rs.50,000/- with one surety in the like amount.

(iii) The applicant shall not enter into the vicinity of Kharap (Bu), Taluka and District Akola, till culmination of the trial.

(iv) The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.

(v) The applicant shall not induce, threat or promise any witnesses in any manner who are acquainted with the facts of the case either physically or by way of electronic media.

(vi) The applicant shall furnish his Cell phone number and the address along with the names of his two relatives with their addresses and cell phone numbers, before the Investigating Officer.

(vii) The applicant shall furnish his address where he is intending to reside after releasing him on bail, before the Investigating Officer.

(viii) The contravention of any of the condition would lead to the cancellation of bail.

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)