



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

CRIMINAL APPLICATION (BA) NO.1152 OF 2024

(Prasanna s/o Venkat Reddy Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. H.P. Lingayat, Advocate for the applicant.
Mr. K.R. Lule, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- DECEMBER 12, 2024.

Heard.

2. By this application, the applicant is seeking bail as he came to be arrested on 06.07.2021 in connection with Crime No.409/2021 registered with police station Gadchiroli, District Gadchiroli for the offence punishable under Sections 302 and 201 of the Indian Penal Code.

3. Learned Counsel for the applicant submitted that the implication of the present applicant is on the basis of the memorandum statement and the CCTV footage. On the similar footing the other co-accused Dhananjay Anil Uikey was arrested and he is released on bail. He submitted that the applicant is entitled to be released on bail on the ground of parity as well as on the ground of delay. He submitted that the incident took place in the intervening night between 23.06.2021 and 24.06.2021. The entire case is based on the circumstantial evidence i.e. the CCTV footage and the memorandum statement of the

accused on which the prosecution is relied upon. Apart from the merits of the case, there is inordinate delay in trial and in support of his contention he placed reliance on the decision of the Hon'ble Apex Court in the case of *Javed Gulam Nabi Sheikh Vs. State of Maharashtra and another* [2024 SCC OnLine SC 1693] and *Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh in Criminal Appeal No. 2790/2024 decided on 18.07.2024*. He submitted that as the right of the present applicant as to the speedy trial is affected, and therefore, the applicant be released on bail.

4. Learned APP strongly opposed the application and submitted that the prosecution cannot be blamed for the delay in trial. There are several reasons due to which the trial is not commenced. Now, charge is already framed and trial can be commenced at any time. In view of that, the application deserves to be rejected. On the merits he submitted that involvement of the present applicant revealed not only from the CCTV footage but from the statement which is recorded under Section 27 of the Indian Evidence Act. Thus, there is a prima facie material to connect the present applicant with the alleged offence. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the sides. Perused the investigation papers from which it reveals that though the involvement of the present applicant is revealed from the circumstantial evidence;

however, the major ground raised by the present applicant is that though he is arrested on 06.07.2021 and three and half years have already passed, there is no progress in the trial, even not a single witness is examined and the applicant cannot be kept behind bar for an indefinite period. Considering the ground raised by the applicant that there is a delay in trial, the status report was called from the concerned Court. It reveals from the status report that as the muddemal is not received, and therefore, trial is not commenced. There is no dispute as to the fact that the applicant is behind bar for more than three and half years. The offence alleged is also a serious offence and the involvement of the present applicant reveals from the investigation papers but considering the observation of the Hon'ble Apex Court in both the judgments which are referred by the learned Counsel namely Javed Gulam Nabi Sheikh Vs. State of Maharashtra and another Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh (supra) wherein the Hon'ble Apex Court has considered the aspect of and right of the speedy trial enshrined under Article 21 of the Constitution and it is observed that :

“If the State or any prosecuting agency including the Court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not

oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

6. In the recent order also the Hon'ble Apex Court has considered this aspect in the case of '***X*** Vs. ***State of Rajasthan & Anr. [Special Leave Petition (Criminal) No. 13378 of 2024]*** dated 27.11.2024 wherein it is held that it is only in the event if the trial gets unduly delayed and that too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that right of the accused to have a speedy trial has been infringed.

7. In view of the observations of the Hon'ble Apex Court and considering the fact that there is delay in trial and the right of the present applicant of a speedy trial in view of Article 21 of the Constitution is infringed and considering the fact that the applicant cannot be kept behind bar for an indefinite period, the application deserves to be allowed. Considering all these facts, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant – Prasanna s/o Venkat Reddy in connection with Crime No.409/2021 registered with police station

Gadchiroli, District Gadchiroli for the offence punishable under Sections 302 and 201 of the Indian Penal Code, be released on bail on executing PR. bond of Rs.50,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter into the vicinity of Gadchiroli except attending the Court proceedings before the Sessions Court, till culmination of the trial.

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

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

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)