

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 763 OF 2025

Gautam Navlakha .. Appellant

Versus

National Investigation Agency & Anr .. Respondents

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Dr. Yug Mohit Chaudhary with Anush Shetty for the appellant.
Mr. Anil C. Singh, Additional Solicitor General of India, with
Mr. Chintan Shah, Adarsh Vyas for respondent NIA.
Ms. Sangeeta Shinde, APP for the State.
PI Akhilesh Singh from NIA, Mumbai present.
H.C. Mr. Subhash Ingole from NIA, Mumbai present.

CORAM : BHARATI DANGRE &
SHYAM C. CHANDAK, JJ
DATED : 17th DECEMBER, 2025

JUDGMENT (PER BHARATI DANGRE, J) :-

1 *“In the tapestry of life, our home towns are the threads that weave the story of who we are”.*

The above quote truly expresses the desire of a septuagenarian, an under-trial prisoner currently on bail in Special Case No. 414/2020 and presently stationed in Mumbai, awaiting his trial.

2 In connection with FIR No.4/2018 registered at Vishrambaug police station, Pune regarding the Bhima

Koregaon incident that occurred on 1/1/2018, the appellant was arrested from his residence on 28/8/2018.

On the very same day, the Delhi High Court stayed his transit remand and directed him to be placed under House arrest. His arrest was eventually quashed by the Delhi High Court on 1/10/2018, on the ground of non-compliance of the mandatory requirements of Article 22(1) and Article 22(2) of the Constitution, and Section 167 r/w section 57 and section 41(1)(ba) of the Code of Criminal Procedure, 1973.

By virtue of the aforesaid order, the House arrest of the petitioner came to an end. Between 5/10/2018 to 13/4/2020, the appellant continued to be a free man, protected from arrest under various orders passed by the Bombay High Court as well as the Apex Court and he continued to reside at his Delhi residence.

In the wake of the order dated 16/3/2020 passed by the Apex Court, which granted time to him to surrender, on 14/4/2020, the appellant surrendered at the NIA, Delhi office, and he was transferred to Mumbai and produced before the NIA Special Court on 26/5/2020 and was remanded to judicial custody.

3 A supplementary charge-sheet was filed in the subject C.R. involving the appellant under the provisions of the Indian Penal Code as well as under the provisions of The Unlawful Activities (Prevention) Act, 1967.

The appellant, while in custody, as an under-trial prisoner, made a request to the High Court for placing him under House arrest in view of his health condition and advanced age. It was pleaded that he was in custody since 14/4/2020 and housed in Taloja Jail, Navi Mumbai, and although a charge-sheet was filed against him, no charge was framed and he stood accused along with 15 others.

The High Court refused him the facility of House arrest.

This order on being challenged before the Apex Court, he was subjected to medical evaluation, and a report from Jaslok hospital, Mumbai was received.

4 Upon an in-depth consideration of the said report, it was recorded that the petitioner was in custody since 2020 and that, even in the past, he was placed under House arrest and there was no complaint about his conduct when this facility was extended to him.

Recording that prima facie there did not appear to have been any case that he will misuse the facility of House arrest and since the petitioner did not have any criminal background, and rather his services were utilised in past by the Government of India as an interlocutor to mediate with extremists for securing the release of security personnel kidnapped by the Maoists, he was permitted to be placed under House arrest at the address mentioned in the order. The appellant was also directed to bear the expenses for making

available the police personnel to effectively facilitate placing him under House arrest with certain other directions being issued, including the restriction on use of mobile phone, internet, computer, laptop etc.

5 The appellant thereafter moved an application for bail in NIA Special Case which was rejected by the Special Judge, Greater Mumbai, and he preferred an Appeal under section 21(4) of the National Investigating Agency Act, 2008. By judgment and order dated 19/12/2023, he is directed to be released on bail by quashing the order dated 6/4/2023 passed by the Special Judge.

His release is however, subjected to various conditions, the prominent among them being the following ones :-

“(vi) Before his actual release from jail, appellant shall furnish his contact numbers, both mobile and landline and permanent residential address to the Investigating Officer and the learned Special Court before which the case was of appellant is pending;

(vii) Appellant shall attend the concerned police station where he intends to reside after his release from jail, initially for a period of one year, once in a fortnight i.e. on every 1st and 16th of each English Calendar month and thereafter on every first Monday of the month between 10.00 a.m and 12.00 noon, till conclusion of trial’

(viii) Appellant shall deposit his passport held by him before his actual release from jail, with the designated Special Court.”

When the NIA approached the Apex Court, the order of his release was initially stayed. However, on 14/5/2024, the stay was not further extended, by recording that continuing House arrest would lead to unnecessary expenditure and by directing payment of Rs.20 lakhs within a period of two weeks, in addition to the conditions that were imposed in the High Court in the impugned judgment.

6 It is in this background fact, on 21/4/2025, the appellant filed an application before the Special Judge, seeking permission to permanently reside in Delhi. The application was premised on the ground that he is more than 72 years of age and is a permanent resident of Delhi and the partner with whom he is residing is also a permanent resident of Delhi, Delhi being their sphere of social life.

It was urged that continuing to reside in Mumbai has become burdensome, as it was difficult to find accommodation and it is also uneconomical as it was difficult to cope up with the increasing finances, as it involved the basic necessities like house rent, food, travel and the appellant along with his partner, with no source of income, are only surviving on their savings.

It was also pleaded that during his stay in Mumbai, he has been unemployed, though he was engaged as a journalist in Delhi, prior to his arrest and therefore, he had to be financially depend on friends and family and it has become extremely difficult to sustain a stable lifestyle in Mumbai.

Another reason cited before the Special Judge was about his 86 year old sister who is also residing in Delhi and on account of her fragile health, he is duty bound to cater to her.

A clear commitment was given to the Court that he shall make himself available as and when required by the Investigating Agency and that he shall make himself available for trial and shall not be responsible for any delay in the proceedings.

7 This application, however, is rejected on 19/6/2025 relying upon the order of the High Court while releasing him on bail and which included a direction not to travel outside the jurisdiction of the Court without prior permission of the trial Court.

It is in light of the aforesaid direction, the Special Judge was of the view that the High Court had not granted discretion to the Court to allow the applicant to reside permanently outside the jurisdiction of Bombay and the application (Exhibit 102) came to be rejected.

8 Dr.Yug Mohit Chaudhary representing the appellant raising a challenge to the said order, has urged before us that the peculiarity of the circumstances in which the appellant find himself deserve due consideration.

The appellant being a permanent resident of Delhi, made a request for permission to reside in Delhi, where he has easy and convenient access for medical aid in the wake of his health ailments and he shall also enjoy the support of his family

and friends. Dr.Chaudhary had also urged that since the time of his arrest, initially in the year 2018, and subsequently, on his surrendering before the Authority, he has never flouted any order passed or condition imposed, nor has he attempted to abscond or tamper with the evident or influence witnesses. It is submitted that the appellant was in House arrest but he is never accused of misusing the liberty. Apart from this, he was also permitted to visit Delhi and even then, he did not engage into any act which would prove detrimental to the interest of the prosecution.

It is also submitted by Dr.Chaudhary that the charge-sheet is filed, but the charges are not yet framed despite lapse of five years and even his discharge application filed in the year 2022 is not yet decided.

Perceiving that the trial is going to be a long drawn affair, particularly when the prosecution has cited 370 witnesses and the charge-sheet runs over 20,000 pages, the apprehension expressed is that it may consume considerable time and confining the appellant in a city alien to him, would put him in quandary.

9 We have heard Mr.Anil Singh, Addl. Solicitor General of India, who vehemently opposed the application by submitting that the appellant is already released on bail and since the trial is going to be conducted in Mumbai, he must continue to reside in Mumbai, as he may be required to attend the proceedings on various dates and at various stages. Though

fairly, Mr.Singh do not dispute that the appellant in the past, had never attempted to flee the course of justice, nor is he accused of interfering in the case of the prosecution in any manner.

10 With the track record of the appellant, as an under-trial prisoner, presently on bail, as reflected through various orders passed by the High Court as well as the Apex Court, we appreciate the situation in which he sought permission from the Special Judge to reside permanently in Delhi.

It is not disputed that the trial with involvement of several accused, is likely to be a long drawn process, as the prosecution has cited over 370 witnesses and the charge-sheet runs into pages involving 54 volumes. Moreover, with the multiple number of accused in the case, it would further add to the length of time to be consumed in finally pronouncing upon the guilt of the accused persons, including the appellant.

True it is that the trial shall not be permitted to be delayed on account of non-availability of the appellant but as pointed out to us, despite the charge-sheet being filed by NIA in the year 2020 till date, charge is not framed.

11 The judgment and order directing his release on bail record that the trial Court submitted a report on 18/9/2022, informing that it will require more than a year to frame the charge and as a matter of fact, till date, charge has not been framed. By recording that the possibility of trial being concluded in the near future is very bleak, and by taking into

consideration the fact that the appellant is in pre-trial incarceration for more than three years and eight months, his release was secured by relying upon the authoritative pronouncements of the Hon'ble Apex Court underlying the importance of speedy trial and it being recognized as a right of an accused.

12 It is in this peculiar situation when the conclusion of the trial do not appear to be in sight, with no certainty about the timeline within which the trial shall be concluded, the appellant desire to return to his home, which is not merely a place of abode for him, but is a feeling of security, connectivity and contentment.

Delhi being his home town, the appellant is justified in expecting that he will receive better medical assistance and feel at home amongst his friends and relations around him. He is hopeful of a feeling of fulfillment in his town, which will make him feel good, as the city of Delhi was always his habitat.

13 We see no reason why we should deny his request of permitting him to reside in Delhi, as it is his fundamental right to chose his place of residence and unless it adversely impact the trial which he is to face. Though the permission is sought to permanently reside in Delhi, we feel that it must be granted subject to a caveat, that when the trial commences, he must make himself available in Mumbai and as and when his presence is required in the Court, he must unfailingly attend the proceedings.

We do not wish to create a situation where the trial proceedings are postponed on the ground of his non-availability and though an attempt is made by Dr. Chaudhary to urge before us that he may be permitted to attend the proceedings of trial, through video conferencing, we do not subscribe to his argument and deny the said benefit to him.

We make it clear that purely on humanitarian consideration and considering the aspect of advance age of the Appellant and since he is hit by a feeling of solitude, while he is away from his home, we permit him to reside in the City of Delhi on the address given by him in the application, but we do not confer him the absolute right, as it shall be liable to be curtailed as and when his presence is required before the Special Court in Mumbai.

14 In wake of the aforesaid, while we set aside the impugned order dated 19/6/2025 passed by the Special Judge, who has narrowly construed the order releasing him on bail by observing that the High Court had imposed a condition of not permitting him to travel outside the jurisdiction and that no discretion is vested in him to grant him permission, we permit the petitioner to shift to Delhi and continue to reside there. However, the permission is subjected to the following conditions :-

- (a) The appellant shall surrender his passport before the Special NIA Court, Mumbai.
- (b) The appellant shall not move out of Delhi without prior

permission of the learned Special NIA Court, Mumbai.

(c) The appellant shall mark his presence before the Kalkaji police station on every Saturday between 9.00 to 11.00 a.m. Upon marking the presence by the appellant, the said police station to send the report to NIA, Mumbai through email on info.mum.nia@gov.in.

d) The appellant shall remain physically present before the Special NIA Court at the time of framing of the charge and thereafter on all dates of the proceedings before the Court, when his presence is required except when he is granted exemption from appearance.

15 Appeal is allowed in the aforesaid terms.

We must however, clarify that the order passed by us in the peculiar facts and circumstances of the present case and shall not be treated as a precedent for extending similar relief to other accused persons.

(SHYAM C. CHANDAK,J)

(BHARATI DANGRE, J.)