



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

CRIMINAL APPLICATION (BA) NO.26 OF 2025

(Ankush s/o Ramesh Kumre Vs. State of Maharashtra and anr.)

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

Court's or Judge's Order

Mr. M.A. Deo, Advocate for the applicant.
Mr. N.B. Jawade, APP for the State.
Ms S.H. Bhagat, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 26, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 22/01/2019 in connection with Crime No.8/2019 registered with Police Station Dhanora, District Gadchiroli for the offences punishable under Sections 376-D, 376-A, 363, 506 read with Section 34 of the Indian Penal Code and Sections 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Section 66(E) of the Information Technology Act, 2000.

2. As per the allegations in the FIR lodged by the victim that she was proceeding on 19/01/2024 along with two others for watching drama. After crossing some distance, the present applicant came to her and forced her to sit on his motorcycle and took her to the veterinary clinic at Koregaon. There the other co-accused persons were already present, who were in the possession of the liquor and thereafter victim was forced to consume the

liquor and thereafter all the accused subjected her for sexual assault. It is further alleged that she was also threatened, if she disclosed the said incident she has to face the dire consequences. On the basis of the said report, police have registered the crime against the present applicant.

3. Now, the application is filed by the applicant on the ground of delay in trial.

4. Learned Counsel for the applicant submitted that the applicant is arrested on 22/01/2019. From the report of the District Judge – 1 and Additional Sessions Judge, Gadchiroli shows that till today, only three witnesses are examined. The prosecution is intending to examine in all 27 witnesses. So sufficient time is required to conclude the trial. The applicant has already undergone six years as an under trial prisoner. In support of his contention he placed reliance on Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh [(2024) 9 SCC 293] and submitted that the right of the present applicant as to the speedy trial enshrined under Article 21 of the Constitution of India is affected as the trial is not concluded within a reasonable period. In view of that, the applicant be released on bail.

5. Learned APP strongly opposed the application and submitted that the report of the District Judge and Additional Sessions Judge, Gadchiroli shows that three

witnesses are already examined and trial can be concluded within short period of time. He further invited my attention towards the investigation papers and submitted that considering the gravity of the offence that victim was subjected for the sexual assault by the present applicant and the other co-accused. Thus, the case of Gang Rape is before this Court and considering the gravity of the offence, the application deserves to be rejected.

6. I have heard learned Counsel for both the sides. Perused the investigation papers from which it reveals that admittedly, the applicant is prosecuted for the offence punishable under Section 376(D) and 376(A) i.e. on an allegation that he as well as the other co-accused subjected the victim girl for forceful sexual assault. The statement of the victim, her medical examination and the other statements of the witnesses and the investigation papers reveals his involvement in the present crime. However, the application is filed only on the ground that there is inordinate delay in conclusion of the trial and the right of the present applicant of the speedy trial enshrined under Article 21 of the Constitution of India is affected. This aspect is time and again dealt by the Hon'ble Apex Court. Learned Counsel for the applicant has placed reliance on Sheikh Javed Iqbal @ Ashfaq Ansari (supra) wherein also by referring its earlier judgment in ***Javed Gulam Nabi Sheikh Vs. State of Maharashtra and another*** [2024 SCC OnLine SC 1693] wherein the Hon'ble Apex Court observed as under :

“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.”

7. The Hon’ble Apex Court in the case of **‘X’ Vs. State of Rajasthan & Anr. [Special Leave Petition (Criminal) No. 13378 of 2024] dated 27/11/2024** wherein also the Hon’ble Apex Court dealt with the issue like a serious offences like rape, murder, dacoity, etc. and it is observed that Ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused. It is further held that it is only event of 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.

8. In the light of the above observation, if the facts of the present case are taken into consideration it reveals that the crime was registered against the present

applicant on 22/01/2019. Bail application on behalf of accused No.2 Ashish Dhurve was filed and same was rejected on 01/07/2019. On 07/01/2020 the muddemal was deposited which was received from CA. On 23/01/2020 examination-in-chief of victim was partly recorded but report of seized mobile was not received from CA and hence the matter was adjourned. On 13/10/2021 the report of the seized mobile was filed on record and on 03/03/2022 examination-in-chief of the victim was completed. On 18/04/2022 accused No.1 – Ankush Kumre has filed the application for releasing him temporary bail which was rejected on 27/04/2022. Thereafter the present accused filed an application for releasing him on temporary bail which was allowed on 09/12/2022. On 07/06/2022, 16/08/2022 and 09/10/2023 cross-examination of the victim was partly recorded and it was completed on 23/11/2023. Thereafter directly on 25/01/2024 another witness was examined and his cross-examination was completed on 06/03/2024. Thus, from the report it reveals that the trial is proceeding with a snail speed. Thus, considering the applicant is behind bar from 22/01/2019 and since then he is behind bar. There is no such progress from which it can be ascertained that the trial can be concluded in near future.

9. In view of the observation of the Hon'ble Apex Court though the involvement of the present applicant revealed in a serious offence, his right of speedy trial is affected under Article 21 of the Constitution of

India. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The applicant - Ankush s/o Ramesh Kumre in connection with Crime No.8/2019 registered with Police Station Dhanora, District Gadchiroli for the offences punishable under Sections 376-D, 376-A, 363, 506 read with Section 34 of the Indian Penal Code and Sections 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Section 66(E) of the Information Technology Act, 2000, be released on bail, on executing P.R. Bond in the sum of Rs.50,000/- with one solvent surety in the like amount.

(iii) The applicant shall attend the concerned police station twice in a month i.e. 1st and 15th day of every month till the culmination of the trial and shall cooperate with the investigating agency.

(iv) The applicant shall not leave the jurisdiction of Gadchiroli district without prior permission of the District Court, Gadchiroli.

(v) The applicant shall furnish his cell phone number, detailed address and names of his two relatives along with the address proof.

(vi) The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances and shall cooperate with the Court for disposing of the trial at the earliest.

(vii) The applicant shall not enter into the vicinity of village Paraswadi, Tahsil Dhanora, District Gadchiroli till culmination of trial.

(viii) 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.

10. The application stands disposed of.

11. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)