



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

CRIMINAL APPLICATION (BA) NO.54 OF 2025

Avinash Surendra Mate

Vs.

State of Maharashtra, through Police Station Officer, Gadchiroli

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

Court's or Judge's orders

Mr. Atharv Khadse, Counsel h/f Mr. S.P. Bhandarkar, Counsel for the applicant.
Mr. M.K. Pathan, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 12/03/2025

1. 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 offences punishable under Sections 302, 120-B, 201 read with Section 34 of the Indian Penal Code (for short, 'I.P.C.').
3. Learned Counsel for the applicant submitted that the entire case is based on the circumstantial evidence in the nature of the memorandum statement of the applicant and the statement of the witness Rizwan Sayed Khan. It is submitted that at the instance of the applicant the weapon like kada (iron ring) has been seized. The

query report by the medical officer shows that injury Nos.1 and 3 observed by the medical officer is possible by the said iron ring. It is submitted that the applicant is arrested merely on suspicion. There is no direct evidence to connect the present applicant with the crime. It is further submitted that the application is filed mainly on the ground of delay in trial as since the date of arrest there is no such progress in the trial and trial is still for producing the muddemal. The applicant cannot be kept behind the bars for the indefinite period. In support of his contention learned counsel for the applicant placed reliance on the orders passed by this Court in *Criminal Application (BA) No.1161/2024 (Aman S/o. Laxman Kalsarpe .v/s. State of Maharashtra)* decided on 24.01.2025 and *Criminal Application (BA) No. 1152/s2024 (Prasanna S/o. Venkat Reddy .v/s. State of Maharashtra)* decided on 12.12.2024.

4. Learned APP strongly opposes the application and submitted that the memorandum statement of the present applicant is on record and at his instance the weapon of the offence is recovered. It is further submitted that the medical query report shows that injury No.1 and 3 which are found on the person of the deceased are possible by the said iron ring. There is statement of the driver of the vehicle which shows the involvement of the present applicant. Thus, there is *prima-facie* material

to connect the present applicant with the alleged offence and therefore, the application deserves to be rejected.

5. After hearing both the sides and on perusal of investigation papers, it reveals that on the basis of the memorandum statement of the other co-accused the involvement of the present accused revealed. Subsequently, on the basis of the memorandum statement of the present accused, the weapon of the offence i.e. iron ring was recovered. Moreover, the statement of the driver also shows his involvement in the alleged offence. Now only question remains about the delay in trial. It is undisputed that trial is not yet commenced and since the case is fixed for producing the muddemal, it is well settled law that the accused cannot be kept behind the bars for an indefinite period. This aspect is considered recently by 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***, reported in, 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, wherein the Hon'ble Apex Court has considered the aspect of the right of the speedy trial enshrined under Article 21 of the Constitution of India 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 far 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 a delay in trial and the trial has not yet commenced and the case is fixed for production of the muddemal and further considering the fact that the right of the present applicant of a speedy trial in view of Article 21 of the Constitution of India has been affected and the fact that the applicant cannot be kept behind the bar for an indefinite period, the application deserves to be allowed. Accordingly I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant **Avinash Surendra Mate**, shall be released on bail in Crime No.409 of 2021, registered with Gadchiroli Police Station District Gadchiroli for the offences under Sections 302, 201 and 120-B read with Section 34 of the Indian Penal Code on executing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety in the like amount.

(iii) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

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

(v) The applicant shall not enter vicinity of Gadchiroli till culmination of the trial.

8. The criminal application is disposed of.

(URMILA JOSHI-PHALKE, J.)