



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

CRIMINAL APPLICATION (BA) No. 72 OF 2025

Sunil s/o Kunjilal Harode 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. S.D. Chande, counsel for applicant.
Mr. Anant Ghogre, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 27/02/2025.

1. The applicant came to be arrested on 08/02/2021 in connection with Crime No. 35/2021 registered with Police Station Shanti Nagar, Nagpur for the offence punishable under Sections 114, 143, 147, 148, 302, 323 read with Section 149 of the Indian Penal Code, 1860, and Section 4/25 of the Arms Act, and Section 135 of the Maharashtra Police Act.

2. As per the allegation levelled by the informant, on 07/02/2021, the applicant and the other co-accused formed the unlawful assembly and assaulted the deceased Vijay Waghdhare by fist and kick blows. Though one Sangita Dhere intervened in the quarrel, the co-accused Akash Lalaji Bhule came with the knife in his hand and gave a blow of knife on his abdomen. Due to which, he sustained the injury and succumbed to the death. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned counsel, Mr. S.D. Chande for the applicant, submitted that the present application is filed, namely on the ground that there is a delay in trial. The earlier application is withdrawn by him, wherein the liberty was granted to the present applicant to file after three months, if the trial is not concluded within three months. The said order was passed on 25/09/2024, thereafter, till today, the trial is not concluded. Today, the matter was kept before the Sessions Court; however, only one witness was examined. Now material witnesses are already examined. As far as further incarceration of the present applicant is concerned, which is not required. The role of giving a blow by knife is not attributed to the present applicant, but it is attributed to one Akash Lalaji Dhule. The role attributed to the present applicant is that he has brought the sword and gave blow by sword on the chest of the deceased, and therefore, the deceased has sustained the grievous injuries and succumbed to the death.

4. He submitted that the applicant is behind bars since 08/02/2021, the material witnesses are already examined. There is a delay in the trial. It is now well settled by the catena of decisions that Article 21 enshrines the right of the accused of a speedy trial, and if that right is affected irrespective of the nature of the crime, the applicant deserves to be released on bail.

5. In support of his contention, he placed reliance in the case of ***Praveen Rathore Vs State of Rajasthan and another [2023 SCC OnLine SC 1268]*** wherein the Hon'ble Apex Court has considered this aspect and observed that the prosecution intends to examine 76 witnesses, out of whom 53 have already been deposed. All the criminal witnesses have already been examined. The instant case was adjourned on a few occasions to enable the prosecution to examine Chauthmal Kashyap and Manohar Rathore, who were stated to be the vital witnesses. Their deposition is also complete, and released the applicant bail.

6. Learned APP strongly opposed the said application and submitted that the trial is on the verge of its completion, if the applicant is released on bail, that would be a hurdle in disposing of the case. In view of that, the application deserves to be rejected.

7. After hearing both sides and on perusal of the investigation papers, there is no dispute as to the fact that the role of the present applicant is revealed from the investigation papers. The vital role is played by the present applicant as far as the cause of death is concerned, but now the material witnesses are already examined by the prosecution; only the investigating officer remains to be examined. The applicant is behind bar since 08/02/2021, i.e more than four years. After liberty is granted by this Court on the statement made by

the learned APP that only two witnesses remain to be examined, and the said statement was recorded on 25/09/2021. Despite the said statement, till today i.e. within five months, the trial is not concluded. Thus, considering the right of the present applicant of a speedy trial, which is affected. The applicant has made out a case for grant of bail. In view of that, I proceed to pass the following order.

- a] The criminal application is **allowed**.
- b] The applicant – **Sunil s/o Kunjilal Harode**, shall be released on bail in connection with Crime No. 35/2021 registered with Police Station Shanti Nagar, Nagpur for the offence punishable under Sections 114, 143, 147, 148, 302, 323 read with Section 149 of the Indian Penal Code, 1860, and Section 4/25 of the Arms Act, and Section 135 of the Maharashtra Police Act, on executing PR. Bond in the sum of Rs.50,000/- with one solvent surety in the like amount.
- c] The applicant shall not induce, threat or promise any witnesses, who are acquainted with the facts of the present case and shall cooperate to dispose of the trial at the earliest.

- d] The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.
 - e] The applicant shall not leave the jurisdiction of the Nagpur City without prior permission of the District Court, Nagpur.
8. The criminal application is **disposed of** accordingly.

[URMILA JOSHI-PHALKE, J.]