



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

CRIMINAL APPLICATION (BA) NO.112 OF 2025

Narayan s/o Bhikaji Gayaki
Vs.

State of Maharashtra, through Police Station, Police Station Officer,
Tamgaon, District Buldhana

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

Court's or Judge's orders

Ms. Radha M. Mishra, Counsel for the applicant.
Ms. Swati Kolhe, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 25/02/2025

1. By this application, the applicant, who is aged 70 years has filed an application for grant of bail under the scheme of Special Campaign for Old Prisoners and Terminally Ill Prisoners launched by the National Legal Services Authority (NALSA). The applicant was arrested on 24.01.2024 in connection with Crime No.19/2024 registered with Police Station Tamgaon, District Buldhana for the offence punishable under Section 302 and 316 of the Indian Penal Code, on an allegation that he has caused the death of one Ashwani Ganesh Gayaki and Samarth Devanand Gayaki, who are the daughter-in-law and the grandson. At the relevant time, the deceased Ashwani was also pregnant and due to the trifle reason that they have obtained the loan on the agricultural land, there was a dispute and on that

count. They were assaulted by means of axe on the head and other parts of the body and caused their death.

2. Heard learned Counsel for the applicant who submitted that the scheme is launched by NALSA to give assistance to the older prisoners in assessing the legal assistance as well as to release them from their detention and to provide additional support to the older prisoners. In view of the said scheme, the applicant being 70 years of age be released on bail.

3. Learned APP strongly opposed the said application and submitted that except the ground that he is old, there is nothing on record to show that he is suffering from any disability or he is in need of constant care, therefore, the application deserves to be rejected.

4. Heard both the sides. Perused the recitals of the FIR as well as the summary of the charge-sheet. From the recitals of the FIR, it reveals that the applicant is the father-in-law of the deceased Ashwani and grandfather of the another deceased namely Samarth Devanand Gayaki, who was 9 years old. On 23.01.2024 the dispute arose between them on account of obtaining the loan on the agricultural land and on that count, both the deceased were assaulted by the present applicant by means of axe and caused their death. Thus, as far as

the involvement of the present applicant in the alleged crime is concerned, which is apparent. I have also considered the scheme which is launched by the NALSA which is the Special Campaign for Old Prisoners and Terminally Ill Prisoners. The clause 1.4(a) of the said scheme shows that older prisoners assistance to older prisoners in accessing legal counsel, legal and paralegal aid services from the outset of their detention and to provide additional support to older prisoners with mental or physical disabilities, as required, to ensure that they are not discriminated against in their access to justice and treatment in the criminal justice system. The another sub-clause shows that release on compassionate grounds older prisoners who are in need of constant specialist nursing care, and who do not pose a risk to society, transferring them to an appropriate institution in the community and third clause shows that encourage and facilitate contacts between older prisoners and legal aid services at the appropriate stage, in order to assist such prisoners in gaining early conditional and compassionate release.

5. Thus, in view of the said scheme, the release of the prisoners on compassionate grounds who are in need of constant specialist nursing care, and who do not pose a risk to society.

6. Considering the involvement of the present applicant in the offence which is serious in nature

under Section 302 of IPC and he has caused the death of two persons i.e. a boy of 9 years and daughter-in-law. As far as the need of special nursing is concerned, there is nothing on record to show that he is suffering from any ailment or he is in need of constant specialist nursing care or any other care. As far as the older age is concerned, here old age is not sufficient to release him on bail. In view of that, the application deserves to be rejected. Accordingly, I proceed to pass following order:

ORDER

The application is rejected.

(URMILA JOSHI-PHALKE, J.)