



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

CRIMINAL APPLICATION (BA) NO.109 OF 2025

(Nilesh Prakash Paunikar Vs. The State of Maharashtra thr. PSO PS MIDC, Nagpur)

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

Court's or Judge's orders.

Mr. N. S. Padia, Advocate for Applicant.
Ms. Ritu V. Sharma, APP for Non-Applicant/State.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 7th APRIL, 2025.

1. Heard.
2. The applicant came to be arrested on 16.05.2021, in connection with Crime No.256/2021 registered with Police Station M.I.D.C., Nagpur for the offence punishable under Sections 302, 449, 396 and 120-B of the Indian Penal Code.
3. The crime is registered on the basis of report lodged by Amol Pandurang Tiwalkar on 14.05.2021 that on the same day there is on 14.12.2021 at about 10'o clock when he returned back from his duty, at that time the younger brother-in-law informed him that he received a phone call from the maid servant of the deceased who is the mother of the informant that she is found lying a the pool of blood, he immediately rushed to the spot of incident and found that his mother is lying in a pool of blood and the articles in their house were stolen from the cupboard and

his mother has received the injury on her neck which resulted into the death. On the basis of the said report police have registered the crime against the unknown person. During investigation the informant of the present applicant is revealed and therefore, he is arrested.

4. Heard learned counsel for the applicant he submitted that the applicant is arrested on 16.05.2021 and since more than 5 years he is behind bar there is no progress in the trial. He has also submitted that the detailed *roznama* showing that the trial is not yet commenced, and therefore, he submitted that the applicant cannot be behind bar for indefinite period his right of speedy trial is violated which is enshrined under Article 21 of the Constitution, and therefore, irrespective of the nature of the offence the applicant is to be released on bail.

5. The learned APP strongly opposed for the same and submitted that during investigation the involvement of the present applicant is revealed as his blood stained clothes are recovered as well as the knife which is also blood stained is also recovered at the instance of the present applicant. Present applicant and other co-accused while committing the dacoity in the house of the informant committed the offence and caused the death of the mother of the informant. The incriminating articles are received and recovered at the instance of the present applicant which were referred to the DNA examination and the DNA examination report shows the involvement of the present applicant in the alleged offence as the DNA is matching with

the DNA obtained from the blood samples of the deceased. Thus, considering the *prima facie* material, the application deserves to be rejected.

6. After hearing both the sides and on perusal of the investigation papers it reveals that the present crime was registered against the unknown person. During investigation the Investigating Officer has arrested the present applicant. On the basis of memorandum statement the blood stained clothes and blood stained knife was seized at the instance of the present applicant. The said incriminating articles are forwarded to the DNA examination. The DNA examination report shows the blood stained found on the origin of the DNA of the deceased. Thus, as far as the involvement of the present applicant is concerned there is sufficient material to connect him with the alleged offence.

7. At the same time, the another ground raised by the applicant is that his right of speedy trial enshrined under Section 21 of the Constitution is affected as trial is not yet commenced. In view of that, he be released on bail. Admittedly, *roznama* as well as the report of the District Judge-13 and Additional Sessions Judge, Nagpur shows that the trial is not yet commenced. The another Sessions Trial Case No.268/2021 was registered against the child-in-conflict with law he has moved an application for seeking permission to act as an approver now the said permission has already granted against five accused persons on 01.07.2023. The *roznama* as well as the report sufficiently shows that the trial is not yet commenced and

the reasons assigned by the learned District Judge are unacceptable. In view of the observations of the Hon'ble Apex Court in the case of *Sheikh Javed Iqbal alias Ashfaq Ansari alias Javed Ansari v. State of Uttar Pradesh* reported in *(2024) 8 SCC 293* by referring its earlier decision in the case of *Javed Gulam Nabi Shaikh v. State of Maharashtra* reported in *(2024) 9 SCC 813* wherein 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 of India applies irrespective of the nature of the crime.

8. In view of the above observation, admittedly the applicant is behind bar for more than five years his involvement reveals from the investigation papers after considering his right of speedy trial enshrined under Article 21 is violated he has made out a case for grant of bail. Accordingly, I proceed to pass the following order:

[a] The criminal application is allowed.

[b] The applicant – Nilesh Prakash Paunikar shall be released on bail in connection with Crime No.256/2021 registered at MIDC Police Station, Nagpur for the offence punishable under Sections 302, 449, 396

and 120-B of the Indian Penal Code on executing P.R. bond of Rs.50,000/- with one solvent surety in the like amount.

- [c] The applicant shall attend the concerned police station i.e. M.I.D.C. Police Station, Nagpur twice in a month i.e. on 1st and 15th of every month till the culmination of the trial.
- [d] The applicant shall not induce, threat or promise any witness who are acquainted with the facts of the case.
- [e] The applicant shall not leave the jurisdiction of Nagpur till the culmination of the trial.
- [f] The applicant shall attend the proceeding before the Sessions Court without seeking any exemption unless there are exceptional circumstances and shall co-operate with the court for disposal of the matter.

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)