



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

CRIMINAL APPLICATION (BA) NO.203 OF 2025

(Sheikh Rizwan s/o Sheikh Mujib 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. R.K. Tiwari, Advocate for the applicant.
Mr. D.V. Chauhan, Public Prosecutor (Sr. Advocate) a/b
Mr. N.B. Jawade, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MAY 9, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 17/08/2017 in connection with Crime No.239/2017 registered with Police Station Pachpaoli, Nagpur, District Nagpur for the offences punishable under Sections 302, 307, 143, 144, 147, 148, 504, 506-B read with Section 149 of the Indian Penal Code, Section 135 of the Maharashtra Police Act and Section 4/25 of the Arms Act and Sections 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organized Crime Act, 1999.

2. The crime is registered on the basis of report lodged by Imran Khan alleging that on 23/04/2017 some persons had came to the Pan shop of his maternal uncle and there was hot exchange of words between them on account of payment of money. Thereafter father of the complainant tried to settle dispute; however, the person

had a knife with him, and therefore, intervention of police was required. The complainant came to know that the said person was named as Sabir Chaku. Thereafter when Sabir was released on bail, the complainant received his phone call thereby threatening him. However, on the advice of his father the complainant did not lodge any report. On 15/08/2017 at about 12 O'clock in the night when the complainant along with the other persons was making preparation regarding flag hoisting, one person namely Imma started abusing them. Thereafter again at around 1.30 AM said Imma along with the other co-accused including Sabir and the present applicant arrived there. The complainant tried to hide himself from them; however, said persons started quarrelling with father of the complainant and his friend Ashfaq. They assaulted both of them by means of various weapons. The present applicant assaulted the father of the complainant by means of sword. His father was seriously injured and also assaulted by other persons. Ashfaq was the another injured who has assaulted by the accused persons. Due to the assault of the accused persons including the present applicant the father of the complainant succumbed to the death whereas his friend has sustained grievous injuries. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that since last eight years the applicant is behind bar.

There is no much progress in the trial. Only eight witnesses are examined. The 56 witnesses are cited by the prosecution. Again it would take a time to dispose of the trial. In view of that, the applicant be released on bail as the right of the present applicant enshrined under Article 21 of the Constitution as to the speedy trial is affected.

4. Learned Public Prosecutor strongly opposed the application and submitted that there is a direct evidence against the present applicant in the nature of the eye-witnesses. The statements of the witnesses also disclosed the involvement of the present applicant in threatening the witnesses. Thus, the applicant being the member of an organized crime syndicate and involved in series of the offences. Being he is the member of the organized crime syndicate and the offence is committed in furtherance of the common intention of the said syndicate, in view of that, bar under Section 21(4) of the MCOC Act is attracted, and therefore, the application deserves to be rejected.

5. Learned Counsel for the applicant in support of his contention placed reliance on the decision of the Hon'ble Apex Court in the case of **Praveen Rathore Vs. the State of Rajasthan and anr. [MANU/SCOR/122826/2023]** wherein the Hon'ble Apex Court has considered that more than four and a half years of sentence the applicant has undergone. The prosecution intends to examine 76

witnesses, out of whom 53 have already deposed and released the applicant on bail. He further placed reliance on Chintan Vidyasagar Upadhyay Vs. State of Maharashtra [AIR Online 2021 SC 1383], Sheikh Javed Iqbal Vs. State of Uttar Pradesh [AIR 2024 SC 3579], Javed Gulam Nabi Shaikh Vs. State of Maharashtra and ors. [2024 ALL MR (Cri) 2882] and the order of this Court in Criminal Application (BA) No.4/2025 decided on 01/04/2025, Criminal Application (BA) No.72/2025 decided on 27/02/2025 and Criminal Application (BA) No.109/2025 decided on 07/04/2025.

6. I have heard learned Counsel for both the sides. On perusal of the entire investigation papers, it reveals that the entire case is based on the direct evidence i.e. the statements of the eye-witnesses. Some statements of the witnesses also shows the involvement of the present applicant being a member of the organized crime syndicate. Considering the various statements of the witnesses, the involvement of the present applicant reveals. Thus, as far as the merits of the matter is concerned the material collected during the investigation is sufficiently shows his involvement in the alleged offence. Now, coming to the another aspect of delay in trial. There is no dispute that the present applicant is arrested on 17/08/2017. Till today eight witnesses are examined. As far as the right of the present applicant as to the speedy trial is concerned, it is enshrined under Article

21 of the Constitution. While considering this aspect 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 has 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.

7. In view of the above observation, in the present case, eight witnesses are already examined by the prosecution. There is substantial progress in the trial. In view of that, the application deserves to be rejected.

8. Hence, the application is rejected accordingly.

(URMILA JOSHI-PHALKE, J.)