



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

CRIMINAL APPLICATION (BA) NO. 247 OF 2025

Kunal Rameshwar Kamble 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. D.N. Mehta, counsel for applicant.

Mrs. Sneha Dhote, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/04/2025.

1. The present application is preferred by the applicant for grant of bail in connection with Crime No. 225 of 2021, initially registered under Sections 307 and 504 and subsequently converted under Section 302 of the Indian Penal Code, 1860.

2. The allegation against the present applicant is based on a report lodged by Babalugiri Rameshgiri Chavhan, wherein it is alleged that on 08/09/2021, he witnessed that the present applicant assaulted the deceased by means of an Axe on his neck. Due to which he sustained the grievous injuries and subsequently succumbed to death. On the basis of the said report, police have registered the crime.

3. Heard learned counsel for the applicant, who submitted that the application is filed mainly on the ground of delay in trial. Since 9/9/2021, the applicant is behind bar, and not a single witness has been examined till

today. Therefore, the right of the present applicant as to the speedy trial is affected, which is enshrined under Article 21 of the Constitution of India.

4. Learned APP strongly opposed the said application and submitted that trial is already commenced and charges are already framed and summonses are already issued to the witnesses, in view of that, the application deserves to be rejected.

As far as the merits of the matter is concerned, he submitted that the intention of the present applicant is clear from the statements of the witness. The applicant not only used the weapon like an axe but also chosen the vital part of the body, i.e., the neck, and the deceased is dead due to the injuries sustained on the neck. In view of that, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers, especially the statements of the eyewitnesses, it reveals that the present applicant has assaulted the deceased by means of an axe, i.e., also on a vital part. The cause of the death of the deceased is also a head injury. Thus, as far as the role of the present applicant is concerned, it reveals. Now, the only ground remains is that there is a delay in the trial. There is no dispute as to the fact that it is trite law that an accused is entitled to a speedy trial. The right of the present applicant enshrined under Article 21 of the Constitution is to have a speedy trial, which appears to be affected in the present case.

6. Moreover, as observed by the Hon'ble Apex Court in catena of decisions including the decision in the case of *Sheikh Javed Iqbal @ Ashfaq Ansari Vs. The State Of Uttar Pradesh [(2024) 8 SCC 293]*, wherein by referring its earlier judgment in the case of *Javed Gulam Nabi Shaikh vs The State of Maharashtra and another [(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 applies irrespective of the nature of the crime.

7. In view of the observation of the Hon'ble Apex Court, the involvement of the present applicant is in the serious offence, but considering his right enshrined under Article 21 of the Constitution is affected, and therefore, in view of the observations of the Hon'ble Apex Court, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- a] The criminal application is allowed.
- b] The applicant – Kunal Rameshwar Kamble shall be released on bail in connection with Crime No. 225/2021 initially registered

under Sections 307, 504 subsequently converted into Section 302 of the Indian Penal Code, 1860, on executing P.R. Bond of Rs. 50,000/- with one solvent surety in the like amount.

- c] The applicant shall not enter into the vicinity of Tahsil Deori, District Gondia till culmination of the trial.
- d] The applicant shall furnish his address with address proof before the Court wherein he is intending to reside after he is released on bail.
- e] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- f] The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

8. The criminal application is **disposed of**

[URMILA JOSHI-PHALKE, J.]