



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

CRIMINAL APPLICATION (BA) NO.226 OF 2025

Nikhil s/o Vilas Kharat

Vs.

State of Maharashtra, through Police Station Officer, Police Station
Ranapratap Nagar, Nagpur

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

Court's or Judge's orders

Mr. Sameer P. Sonwane, Counsel for the applicant.
Ms. Sneha Dhote, APP for the non-applicant / State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 27/03/2025

1. The applicant came to arrested on 07.06.2019 in connection with Crime No.225/2019 registered with Police Station, Ranapratap Nagar, Nagpur for the offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act.

2. Heard learned Counsel for the applicant who submitted that the applicant is arrested on 07.06.2019 on an allegation that the applicant and other co-accused have committed murder of deceased Sumit @ Shera Satish Chavhan by means of knife. The role attributed to the present applicant is that he has also given a blow by knife on the

abdomen of the deceased and therefore caused the death of the deceased.

3. Heard learned Counsel for the applicant, who submitted that his initial application was rejected considering the *prima facie* case against him. But now since 2019, he is behind the bar and there is no progress in the trial, therefore, the right of the present applicant as to the speedy trial is affected and the right is enshrined under Article 21 of the Constitution of India. In view of that, the applicant be released on bail.

4. Learned APP strongly opposed for the same and submitted that considering the nature of the offence which is grievous one and there is a direct evidence against the present applicant. In view of that, the application deserves to be rejected.

5. Heard learned Counsel for the applicant. Perused the investigation papers. As far as the merit of the matter is concerned, the direct evidence is against the present applicant, and therefore, his earlier bail application was rejected. Now the applicant has come with a case and ground that there is inordinate delay in trial. There is no dispute as to the right of the present accused/applicant which is enshrined under Article 21 of the Constitution of India of a speedy trial, therefore the report of the concerned District Judge – 6 and Additional Sessions

Judge, Nagpur was called. As per the report, the trial is not yet commenced. One discharge application is filed by the other co-accused which is under consideration. Thus, from the report it shows that the Court is over burden with the other cases also, therefore, the trial is not commenced.

6. After hearing both the sides and after perusal of the said report, even the reasons assigned by the District Judge – 6 and Additional Sessions Judge, Nagpur are not acceptable. Merely because, it is over burden, the old trials cannot be held up and some efforts are to be taken. As far as the securing the presence of the witnesses are concerned or securing the mudemmal before the Court is also concerned, learned Counsel for the applicant placed reliance on the decision of the Hon'ble Apex Court in case of **Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh in Criminal Appeal No.2790/2024 decided on 18 July, 2024**, wherein the Hon'ble Apex Court has considered the right of the accused as to the speedy trial enshrined under Article 21 of the Constitution and held 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 observations of the Hon'ble Apex Court, in the present case admittedly, the applicant is behind bar for more than six years. There is no progress in the trial and the applicant cannot be kept behind bar for indefinite period. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Nikhil s/o Vilas Kharat** shall be released on bail in connection with Crime No.225/2019 registered with Police Station, Ranapratap Nagar, Nagpur for the offence punishable under Sections 302, 201 read with Section 34 of the Indian Penal Code and under Section 135 of the Maharashtra Police Act, on executing PR Bond in the sum of Rs.50,000/- with one solvent surety of the like amount.

(iii) The applicant shall attend Ranapratap Nagar Police Station twice in a month on 1st and 15th of every month till the culmination of the trial.

(iv) The applicant shall not leave the jurisdiction of Nagpur district without prior permission of the District Court Nagpur.

(v) The applicant shall not indulge himself in similar type of the activities and a

single incident if reported would lead to the cancellation of the bail.

(vi) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(vii) The applicant shall attend the proceeding before the Sessions Court without seeking any exemption unless there are exceptional circumstances and cooperate with the Court to dispose of the trial at the earliest.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)