



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

CRIMINAL APPLICATION (BA) NO.294 OF 2025

Mura s/o Masa Joi

Vs.

State of Maharashtra, through Police Station Officer, Ettapalli Police
Station Ettapalli (P.H.C. Hedri), District Gadchiroli

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

Court's or Judge's orders

Mr. H. P. Lingayat, Counsel for the applicant.
Ms. T. H. Udeshi, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 17/04/2025

1. The applicant came to be arrested on 27.10.2021 in connection with Crime No.13/2020 registered with Police Station Ettapalli, District Gadchiroli for the offence punishable under Sections 143, 147, 148, 307, 353, 120-B read with Section 149 of the Indian Penal Code and under Section 5, 28 of the Indian Arms Act and under Sections 4 and 5 of the Indian Explosive Act.

2. The crime is registered on the basis of report lodged by the informant PSI Sudharshan s/o Sukhdeo Aawari attached to the Police Help Centre on an allegation that since 23.07.2018 he is posted as Incharge Officer at Police Help Centre Hedri and as per direction of Superintendent of Police Gadchiroli they carrying out anti-naxal campaign within the

jurisdiction of Police Help Centre Hedri. It is further alleged that as per the guidance of upper Superintendent of Police (Campaign) Gadchiroli and S.D.P.O. Hedri on 15.03.2020 at about 5.45 hours went for carrying out anti-naxal campaign at Mouza Manger – Godeli, Bodmeta – Aalur-Dhulepalli region for long route anti-naxal campaign along with P.S.I. Sopan Munde and 17 police Constables of District Police and 34 employees of CRPF. When they reached Bodmeta Jungle area while passing near to village Bodmeta at about 11.05 on 15.03.2020, on the direction of the member of Central Committee of the banned organization C.P.I.(M) named Ganpati, Bhupati, Basawraj, Katkam, Sudharshan, Kosa @ Gopanna and many others Naxalites, who were hiding for attack, exploded the landmine at about 15 meters sought from Police party and made indiscriminate firing on the police party with an intention to kill them and take away the arms and ammunition. On the basis of the report, police have registered the crime against the present applicant.

3. The present application is filed mainly on the ground that there is inordinate delay in concluding the trial and the applicant is languishing in jail since the date of his arrest i.e. on 27.10.2021. Till today, no witness is examined by the prosecution and the applicant cannot be kept behind bar for indefinite period. The right of the present applicant as to the speedy trial enshrined under Article 21 of the

Constitution of India is violated, and therefore, the applicant be released on bail.

4. Heard learned Counsel for the applicant who reiterated the said contentions and also invited my attention towards the various statements of the witnesses and submitted that even considering the statement of the witnesses none of the person has sustained the injury. There is no specific allegation that it is the present applicant who has exploded the said explosion, and therefore, the *prima facie* case is not made out against the present applicant. In view of that, he be released on bail. He further reiterated his contention that as the trial is not commenced the applicant cannot be kept behind bar for indefinite period. In view of that, he be released on bail.

5. Learned APP strongly opposed for the same on the ground that considering the circumstances under which the alleged incident has taken place. Though the injury is not sustained by any of the police persons, but the attempt was made to kill the police persons when they were working in anti-naxal campaign and if the applicant/accused is released on bail, there is possibility of repeating such type of incident. In view of that, the application deserves to be rejected. She further submitted that the recovery of the gun at the behest of the applicant was seized under Section 27 of the Evidence Act and therefore, there is a *prima facie* material against the

present applicant. In view of that, the application deserves to be rejected.

6. After hearing both sides and on perusal of the investigation papers and the various statements of the witnesses as well as the recovery panchanama which shows the involvement of the present applicant in the alleged offence. Thus, the investigation papers specify the role of the present applicant in the alleged offence. However, the another ground raised by the present applicant is delay in trial. Admittedly the applicant is arrested on 27.10.2021 and trial is not commenced. The report of the In-charge District Judge -1 and Additional Sessions Judge, Aheri also shows that though summons are issued the witnesses have not turned up towards the Court, and therefore, the evidence is not recorded. The report further shows that on several occasions, the summons were issued, but the witnesses have not turned up, and therefore, the trial is not commenced. Thus, it is apparent that due to the absence of the witnesses, the trial is not commenced. The prosecution could not secure the presence of the witnesses.

7. Learned Counsel for the applicant placed reliance on the decision of the Hon'ble Apex Court in the case of **Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh reported in (2024) 8 SCC 293** wherein by referring its earlier decision the Hon'ble Apex Court has

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.”

8. In view of the above observation of the Hon’ble Apex Court, as the trial is not commenced the applicant is behind bar from last four years and the applicant cannot be kept behind bar for indefinite period, the applicant has made out a case grant of bail. In view of that, I proceed to pass following order:

ORDER

(i) The applicant is allowed.

(ii) The applicant **Mura s/o Masa Joi** shall be released on bail in connection with Crime No.13/2020 registered with Police Station, Ettapalli, District Gadchiroli for the offence punishable under Sections 143, 147, 148, 307, 353, 120-B read with Section 149 of the Indian Penal Code and under Section 5, 28 of the Indian Arms Act and under Sections 4 and 5 of the Indian Explosive Act, on executing PR Bond in the sum of Rs.50,000/- with one or more sureties in the like amount.

(iii) The applicant shall attend the concerned 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 District Gadchiroli without prior permission of District Court, Gadchiroli.

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

(vi) The applicant shall attend the proceeding before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

(vii) The applicant shall furnish his detailed address along with the address proof and the names and the addresses of two relatives along with their address proof.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)