



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

CRIMINAL APPLICATION (BA) NO.292 OF 2025

Tansingh s/o Manher Kumoti

Vs.

State of Maharashtra, through Police Station Officer, Police Station Korchi,
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.
Mr. Anant Ghogare, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 07/05/2025

1. The applicant who is original accused No.2 filed this application for grant of bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.58/2020 registered with Police Station Korchi, District Gadchiroli for the offences punishable under Sections 143, 147, 148, 353, 307, 120-B read with Section 149 of the Indian Penal Code, under Section 5/28 of the Arms Act and under Section 135 of the Maharashtra Police Act.

2. As per the allegation in the FIR lodged by Premkumar Lahu Dandekar Police Officer that he was attached to the Special Task Force to drive anti-naxal campaign. On that day, he had gone as per the instructions of his superior officer along with the squad of Kishor Arram to effect anti-naxal campaign.

26 Police employees were in the squad of Kishor Arram. On 07.10.2020 at about 9.00 a.m., they had been in the area of Mayarghat Forest. They started their anti-naxal campaign. At about 9.00 a.m. Suklal Tekam, Kisan Madhu and other 10 to 12 Naxalites were found while concealing themselves in a stream. Besides this, Prabhakar Bhaskar, Lokesh, Satish, Jaya Pramod Kachlami other 20 to 25 Naxalites of Dalam Company No.4 were also found. They had fired against the police who were in anti-naxal squad with intention to kill. Police employees of the anti-naxal movement made an appeal to Naxalites for surrender, but they were not listening. They continued firing. On the basis of the said report, police have registered the crime against the present applicant.

3. This application is filed only on the ground that the applicant was arrested on 04.09.2021, yet charges are not framed and the applicant is behind bar since the date of his arrest and the entire roznama shows that despite the applicant and the other co-accused were present before the Court, the charges are not framed and there is a delay in trial, and therefore, the right of the present applicant as to the speedy trial is affected. In view of that, the applicant be released on bail.

4. Learned APP strongly opposed the said application on the ground that considering the

activity in which the applicant is involved, the application deserves to be rejected. It is further submitted that the attack was made on the police officials who were in the Special squad which was formed for the anti-naxal movement. Thus, considering the role of the present applicant, the bail application deserves to be rejected.

5. Heard learned Counsel for the applicant who submitted that the applicant is behind bar since 04.09.2021. As far as the investigation papers are concerned, his involvement is only on the basis of the statement of the co-accused. His name is not mentioned in the FIR. He was arrested subsequently and not from the spot. Now, the investigation is already completed, charge-sheet is filed and the trial is not yet commenced. The applicant cannot be detained behind bar for an indefinite period. In view of that, he prays for releasing the applicant on bail.

6. Considering the submissions made by the learned Counsel for the applicant and it is also substantiated by the learned APP who submitted that the involvement of the present applicant is on the basis of the statement of the co-accused. I have also perused the investigation papers from which also it reveals that the involvement of the present applicant is on the basis of the statement of the co-accused. I have also perused the order passed by the Hon'ble Apex Court in Tansingh Vs. The State of Maharashtra

in **Special Leave Petition (Criminal) Diary No.41144/2024 dated 23.10.2024** wherein the Hon'ble Apex Court considered the aspect of delay in trial though not shown inclination to condone the delay and liberty is granted to the present applicant to file an application and raised the ground that there is delay in the trial for reasons not attributable to the petitioner or the co-accused.

7. On perusal of the entire roznama it reveals that accused are produced time to time either in person or through video conferencing, but the charges are not framed by the trial Court. It further reveals that the accused have also filed an application for framing the charge against them, but despite the application was filed by the accused, the charges are not framed. It is well settled that the accused cannot be detained for indefinite period and the right of the accused of a speedy trial enshrined under Article 21 of the Constitution is to be protected.

8. In the case of **Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh** reported in **(2024) 8 SCC 293** wherein the Hon'ble Apex Court by referring its earlier decision **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another** reported in **(2024) 9 SCC 813** 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". It is further observed that "we may hasten to add that the petitioner is still an accused; not a convict. The over-arching postulate of criminal jurisprudence that an accused is presumed to be innocent until proven guilty cannot be brushed aside lightly, howsoever stringent the penal law may be. We are convinced that the manner in which the prosecuting agency as well as the Court have proceeded, the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution."

9. In view of the observation of the Hon'ble Apex Court in the present case also despite the application is filed by the applicant for framing the charge, the charge is not framed and the trial is not commenced. Thus, considering the approach of the trial Court and the right of the accused to have a speedy trial which has been infringed, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i). The application is allowed.
- (ii). The applicant **Tansingh s/o Manher Kumoti** shall be released on bail in connection with Crime No.58/2020 registered with Police Station Korchi, District Gadchiroli for the offences punishable under Sections 143, 147, 148, 353, 307, 120-B read with Section 149 of the Indian Penal Code, under Section 5/28 of the Arms Act and under Section 135 of the Maharashtra Police Act, on executing PR Bond in the sum of Rs.1,00,000/- with one solvent surety 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 Gadchiroli district without prior permission of the District Court Gadchiroli.
- (v). The applicant shall attend the proceeding before the trial Court without seeking any exemption unless there are exceptional circumstances.
- (vi). The applicant and his Counsel shall cooperate with the trial Court.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)