



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

CRIMINAL APPLICATION (BA) NO. 309 OF 2025

Deepak @ Zhansi s/o Shankarlal Kumlele 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.M.Daga, counsel for applicant.

Mrs. Swati Kolhe, APP for non-applicant/State.

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

1. The applicant is seeking bail in connection with Crime No. 401/2018 registered with Police Station Paratwada, District Amravati for the offence punishable under Sections 302, 201, 120B read with Section 34 of the Indian Penal Code, 1860; and Section 135 of the Maharashtra Police Act.

2. The learned counsel for the applicant submitted that the crime is registered on the basis of a report lodged by Syed Imran Syed Rahman on an allegation that on 13/11/2018, at about 10.30 hours, he was at home at the relevant time, and his brother, the deceased Syed Salim, informed him that he had some work and left the house. Subsequently, he dropped his brother at the square, and when he was returning there, he witnessed that the present applicant and other co-accused were assaulting his brother. His brother has sustained grievous injuries and succumbed to death. On

the basis of the said report, police have registered the crime. The initial application of the present applicant is rejected bearing Criminal Application (BA) No. 153/2020 on 09/03/2020. Now, this application is filed by the applicant on the ground of delay in trial.

Corrected as per
courts order dated
15/04/2025

3. The learned counsel for the applicant submitted that the applicant was arrested on 14/11/2018, charge is not framed against accused No.3 till 31/01/2025, and the applicant is languishing in jail from last 6 years. There is no progress in the trial. The applicant cannot be kept behind bar for an indefinite period, and now, the charge is yet to be framed, and the trial will take its own time for its final disposal. In view of that, as the right of present applicant enshrined under Article 21 of the Constitution is affected, therefore he be released on bail.

4. The learned APP strongly opposed for the said application and invited my attention towards the Roznama and submitted that due to the absence of the co-accused, the charge was not framed, and therefore, there is no delay on the part of the prosecution. In view of that, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers, as far as the involvement of the present applicant is concerned, it reveals from the investigation papers. It reveals that the order was communicated due to the previous altercation between the applicant and the deceased. The role which is attributed to

the present applicant is participation in the assault. The chopper is used in committing the offence, which is recovered at the behest of the present applicant. Thus, as far as the merit of the matter is concerned, admittedly there is a prima-facie material against the present applicant. Now, the present application is filed on the ground of violation of his right under Article 21 of the constitution as to the speedy trial.

6. Furthermore, the Hon'ble Apex Court in the case of *Sheikh Javed Iqbal @ Ashfaq Ansari Vs. The State Of Uttar Pradesh [(2024) 8 SCC 293]*, wherein by referring its earlier decision in the case of *Javed Gulam Nabi Shaikh vs The State of Maharashtra and another [(2024)9SCC 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, perusal of the roznama and the statement made by the learned Counsel for the applicant that the charge is not framed against the accused No.3 till 31/01/2025 and considering that there is inordinate delay in disposal of the trial, and right of the present applicant as

to the speedy trial enshrined under Article 21 of the Constitution is violated, the application deserves to be allowed. Accordingly, I proceed to pass the following order;

- a] The criminal application is **allowed**.
- b] The applicant – Deepak @ Zhansi s/o Shankarlal Kumlele, shall be released on bail in connection with Crime No. 401/2018 registered with Police Station Paratwada, District Amravati for the offence punishable under Sections 302, 201, 120B read with Section 34 of the Indian Penal Code, 1860; and Section 135 of the Maharashtra Police Act, on furnishing PR. Bond of Rs. 50,000/- with one solvent surety in the like amount.
- c] The applicant shall not enter into the vicinity of Paratwada Tah. Achalpur District Amravati except attending the proceedings before the Sessions Court till culmination of the trial.
- d] The applicant shall furnish his detailed address along with the address proof 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** accordingly.

[URMILA JOSHI-PHALKE, J.]