



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

CRIMINAL APPLICATION (BA) NO.382 OF 2025

(Shankar alias Rajesh s/o Shekhar Korwan Vs. The State of Maharashtra thr. PSO
Police Station Bhadrawati, Dist. Chandrapur)

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

Court's or Judge's orders.

Mr. R. M. Daga, Advocate for Applicant.
Mr. C. A. Lokhande, APP for Non-Applciant/State.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 21st APRIL, 2025.

1. Heard.
2. The applicant came to be arrested on 12.04.2022 in connection with Crime No.141/2022 registered with Police Station Bhadrawati, District Chandrapur for the offences punishable under Sections 302, 201, 120-B read with Section 34 of the Indian Penal Code.
3. As per the allegations leveled on the basis of the report lodged by one Amol Manikrao Zade that when he had been to his agricultural field witnessed a dead body of a person who was not having the head on the dead body. He immediately informed the said incident to the police. Due investigation was carried out and during investigation it reveals that the co-accused had the conspiracy with the present applicant and in presence of the said conspiracy committed the murder of the deceased Ritika alias Kajal by

cutting her throat. On the basis of the said report, police have registered the crime against the present applicant as well as the co-accused.

4. Heard learned counsel for the applicant who submitted that as far as role attributed to the present applicant is concerned which is only to the extent of the incident. The assault by knife is attributed to the co-accused Payal, who is child in conflict with the law. He submitted that the entire case is based on the circumstantial evidence the investigation papers shows the involvement of the present applicant in the alleged incident. The main ground raised in the application is that there is delay in trial. The learned counsel for the applicant placed on record the *roznama* which shows that on 10.07.2024 the charge was framed against the present applicant. However, till today, not a single witness is examined by the prosecution. The entire *roznama* shows that one or the other witness the matter was adjourned. It further reveals from the *roznama* that on various occasions the witness are witnesses but they are not present. He submitted that the applicant cannot be kept behind the bar for indefinite period. In support of his contention he placed reliance on the decision of the Hon'ble Apex Court in the case of *Special Leave to Appeal (Cri.) No.8523/2024* and order of this Court in *Criminal Application (BA) No.1161/2024*, *Criminal Application (BA) No.1152/2024* and *Criminal Application (BA) No.54/2025*. Thus, he submitted that in view of the observation of the Hon'ble Apex Court the applicant cannot be kept behind bar

by way of punishment. The trial is already delayed for a long time. Further incarceration of the present applicant is not required. In view of that, he be released on bail.

5. The learned APP strongly opposed for the same and submitted that the involvement of the present applicant is in a previous offences wherein the murder of the deceased was committed in a brutal manner. Considering, the involvement of the present applicant which reveals from the investigation papers, the application deserves to be rejected.

6. After hearing both the sides and on perusal of the investigation papers as far as the involvement of the present applicant in the alleged incident is concerned which reveals from the investigation papers it reveals that the present applicant and other co-accused who is child in conflict with the law were having illicit relations out of that they had conspiracy the murder of the deceased and the child in conflict with the law has given a blow of knife on the person of the deceased and also cut the throat and thereby committed the murder. As far as role the attributed to the present applicant is concerned who was involved in the conspiracy as well as on the basis of memorandum of the statement the knife was seized at his incident. The said knife is already referred for the chemical analysis report which is received. The main ground raised in the application is there is inordinate delay in trial this aspect is considered by the Hon'ble Apex Court in the case of ***Sheikh Javed Iqbal v. State of Uttar Pradesh (2024) 8 SCC 293*** wherein by

referring the earlier judgment the Hon'ble Apex Court 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. Learned counsel for the applicant also placed reliance on the order of the Hon'ble Apex Court in the case ***Balwinder Singh v. State of Punjab & Anr.*** in ***Special Leave to Appeal (Cri.) No.8523/2024*** wherein the Hon'ble Court has held that an accused has a right to a fair trial and while a hurried trial is frowned upon as it may not give sufficient time to prepare for the defence, an inordinate delay in conclusion of the trial would infringe the right of an accused guaranteed under Article 21 of the Constitution. Thus, in view of the observation of the Hon'ble Apex Court in the catena of decisions the applicant has made out a case for grant of bail. Accordingly, I proceed to pass the following order:

ORDER

- [a] The criminal application is allowed.
- [b] The applicant – Shankar alias Rajesh s/o Shekhar Korwan, shall be released on bail

in connection with Crime No.141/2022 registered with Police Station Bhadrawati, District Chandrapur for the offences punishable under Sections 302, 201, 120-B read with Section 34 of the IPC, on executing P.R. bond of Rs.25,000/- with one solvent surety of the like amount.

- [c] The applicant shall attend the concerned police station twice in a month on 1st and 15th of every month and the Police Station Officer shall record his presence.
- [d] The applicant shall not induce, threat or promise any witness who are acquainted with the facts of the case.
- [e] The applicant shall attend the proceeding before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

8. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)