



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

CRIMINAL APPLICATION (BA) NO.368 OF 2025

Shaikh Shoeb Shaikh Anis

Vs.

State of Maharashtra, through Police Station Officer, Police Station Dharni,
District Amravati

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

Court's or Judge's orders

Ms. S. S. Jadhav, Counsel for the applicant.
Mr. C. A. Lokhande, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/08/2025

1. The applicant came to be arrested on 19.04.2022 in connection with Crime No.228/2022 registered with Police Station Dharni, District Amravati for the offence punishable under Sections 302, 307 and 109 read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by one Parvez @ Sonu Sheikh Samir on an allegation that since his uncle Shaikh Anis Shaikh Bashir had scolded his younger brother on 16.04.2022, he went to his house to confront him. However, the uncle of the informant has given him a blow on his head due to which, the informant fell down on the floor. Thereafter, the wife of the uncle of the informant has given a knife to the applicant

and thereafter, the present applicant has given a repeated blows on the person of the deceased, due to which he sustained the injuries and during treatment succumbed to the death.

3. Heard learned Counsel for the applicant, who submitted that as far as the allegations are concerned, which are out of the family dispute. Now the investigation is already completed, charge-sheet is filed and further incarceration of the present applicant is not required. In view of that, he be released on bail.

4. Learned APP strongly opposed for the same and submitted that considering the gravity of the offence, the repeated blows were given on the deceased by means of a knife on the vital part of the body and therefore, the intention of the applicant can be ascertained from the said fact. In view of that, the application deserves to be rejected.

5. On hearing both sides and on perusal of the investigation papers as far as the involvement of the present applicant is concerned, which reveals from the statements of the eye witnesses as well as from the recitals of the FIR. The postmortem report also shows that death of the deceased is due to the stab injury which is caused by the present applicant. Thus, as far as the involvement of the present

applicant in the alleged incident is concerned, which is revealed from the investigation papers.

6. One of the ground raised in the application that the applicant is behind bar since 19.04.2022. The roznama which is placed on record shows that on several occasions the accused is not produced before the Court and till today, charges are not framed. Thus, learned Counsel for the applicant submitted that the right of the present applicant as to the speedy trial enshrined under Article 21 of the Constitution of India is affected and therefore, in view of the observation of the Hon'ble Apex Court that irrespective of the nature of the crime the right of the accused of a speedy trial is to be protected and therefore, he be released on bail.

7. The Hon'ble Apex Court in the case of **Javed Gulam Nabi Sheikh Vs. State of Maharashtra and another in Criminal Appeal No.2787/2024 decided on 03.07.2024**, 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."

8. In view of the observation of the Hon'ble Apex Court in the catena of decisions and considering the fact that the charges are not framed within three years, the applicant has made out a case for grant of bail as the right of the present applicant enshrined under Article 21 of the Constitution of India is not protected and therefore, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant **Shaikh Shoeb Shaikh Anis** shall be released on bail in connection with Crime No.228/2022 registered with Police Station Dharni, District Amravati for the offence punishable under Sections 302, 307 and 109 read with Section 34 of the Indian Penal Code, on executing PR Bond in the sum of Rs.50,000/- with one solvent surety in the like amount.
- (iii) The applicant shall attend the concerned Police Station twice a month on 1st and 15th of every month till culmination of the trial.
- (iv) The applicant shall not enter into the vicinity of village Dharni, Taluka Dharni, District Amravati till culmination of the trial.
- (v) The applicant shall attend the proceeding before the trial Court without seeking any exemption unless there are exceptional circumstances.

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

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)