



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

CRIMINAL APPLICATION(BA) NO. 562 OF 2025

Hiraman Ushtu Kodap Vs. State of Maharashtra and anr.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. R.S.Bhalerao, counsel for the applicant.
Mr.Aditya Gohokar, APP for the State.
Ms.Varsha Warade, appointed counsel for non-applicant No.2.

CORAM : MRS. VRUSHALI V. JOSHI, J.

DATE : 24/09/2025

Heard.

2. By this application, applicant has prayed for regular bail in Crime bearing No.21 of 2022 registered at Dhanora Police Station, District Gadchiroli, for the offences punishable under Sections 376, 511, 354, 354-B, 458, 323, 504 and 506 of the Indian Penal Code.

3. It is the case of the prosecution that the victim is married woman, she is staying with her two sons, one of them is disabled. On the date of the incident i.e. on 09.03.2022, in the night at about 9.00 p.m., victim was in the house with her disabled son. During the night, she

slept and after sometime, felt that somebody was pulling her down by holding her hand. When she saw the applicant, he dragged her from her house pulling her hairs, the applicant insisted her for sexual favour, he tried to remove her clothes, he kicked her and when she resisted, he tried to throttle her neck. She became unconscious. When she regained consciousness, she found her inner clothes on her body were missing. The elder son of the victim found that something is going on in cowshed, therefore he shouted and the applicant ran away from there.

4. On the next day, the crime was registered. The earlier bail application was rejected. The learned counsel appearing for the applicant has filed this bail application on the ground that there is delay in trial. The applicant has relied on the judgment of the Hon'ble Apex Court in the case of **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and anr.** reported in **(2024) 9 SCC 813**, wherein the Hon'ble Apex Court has observed about the right of the accused to have a speedy trial could be said to have been infringed thereby violating Article 21 of the Constitution.

5. The applicant has filed on record the roznama of the trial court. It appears from the roznama, that on 23.06.2023, the charge was framed. Since, then till date

no witness is examined for last two years. The matter is pending for recording of the evidence. Not a single witness is examined.

6. The learned counsel for the applicant has stated that there is delay in trial. The applicant is in jail since last three years. Hence, prayed to release the applicant on bail.

7. The learned counsel appearing for the victim has stated that the offence is heinous in nature. Sexual relations are kept by assaulting the woman. The victim is having disabled son and therefore, it is not possible for her to attend the court and there is delay. The learned counsel appearing for the non-applicant No.2 assured that she will inform the victim to attend the court for giving the evidence. Hence, prayed to reject the application.

8. Learned APP has opposed the application stating that the trial is initiated, the charge is framed. The evidence is not yet commenced as the victim is not coming before the court. As per the assurance of the learned counsel appearing for the victim, the trial will be initiated soon considering the act of the accused prayed to reject the application.

9. Heard the learned counsel appearing for the applicant, learned APP and the learned counsel appearing for the non-applicant.

10. It is observed by the Hon'ble Apex Court in the case of **Javed Gulam Nabi Shaikh Vs. State of Maharashtra and anr.** *supra*, 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.

11. In this case, the applicant is coming before the Court on the ground of delay in trial since last three years, he is in jail. It appears that the charge is framed on 23.06.2023. The status report is called and the concerned court has stated that the summons to the informant/ victim was issued for eleven occasions, but she has chosen to remain absent. The Muddemal is not deposited till 21.04.2024. The complainant/victim has not responded to the summons issued by the Court for giving the evidence and because of this kind of attitude, there is delay in trial. Considering the circumstances, the case is made out to

release the applicant on bail on the ground of delay in trial.
Hence, the criminal application is allowed.

12. Accordingly, I pass the following order:

- i) Criminal application is allowed.
- ii) Applicant- Hiranman Ushtu Kodap be released on bail in connection with Crime bearing No.21 of 2022 registered at registered at Dhanora Police Station, District Gadchiroli for the offences punishable under Sections 376, 511, 354, 354-B, 458, 323, 504 and 506 of the Indian Penal Code on his furnishing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount.
- iii] The applicant shall not enter into the village, where the victim is staying.
- iv] The applicant shall not in any way tamper with the prosecution evidence.
- iv] The applicant shall not pressurize or threaten the prosecution witnesses.

v] The applicant shall co-operate the investigation officer.

13. The Criminal Application stands **disposed of** accordingly.

14. Fees of the appointed counsel be quantified as per rules.

JUDGE