



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

CRIMINAL APPLICATION (BA) NO.627 OF 2025

(Nitin alias Nitesh s/o Subhashrao Tadas and ors. 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. A.C. Jaltare, Advocate h/f Mr. S.B. Taywade, Advocate for the
applicant.
Mr. N.B. Jawade, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 25, 2025.

By this application, the applicants are seeking bail as they came to be arrested on 15/08/2021 in connection with Crime No.709/2021 registered with Police Station Hinganghat, District Wardha for the offences punishable under Sections 302, 504 and 506 read with Section 34 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of a report lodged by Ishwar Purushottam Daf on an allegation that on 13/08/2021 when he was proceeding along with the deceased Irfan, they were intercepted by the present applicant/accused and there was hot exchange of words between the deceased Irfan and the present accused persons and they have assaulted the Irfan by means of sharp weapons like knife, sword and iron pipe etc. Due to the said assault, the Irfan sustained the grievous injuries and succumbed to the death. As far as applicant No.1 is concerned it is alleged that he has given repeated blows on the person of the deceased.

On the basis of the said report, police have registered the crime against the present applicants.

3. Learned Counsel for the applicants submitted that the present application is filed mainly on the ground that there is delay in trial. Since last four years, the applicants are behind bar and there is no progress in the trial, and therefore, the right of the present applicants as to the speedy trial enshrined under Article 21 of the Constitution of India is violated. He further submitted that the eye-witnesses on whose evidence the prosecution relied upon have not supported the prosecution case. So on merits also, the applicant deserves to be released on bail.

4. Learned APP strongly opposed the application on the ground that now trial is already commenced. Five witnesses are already examined and 4 witnesses are remained to be examined. As far as prosecution is concerned the prosecution is securing the presence of the witnesses but due to some reasons the witness was not examined on the last date. He further submitted that the prosecution is not only relied upon the direct evidence but it is relied upon the circumstantial evidence also. The Investigating officer is yet to be examined and he would in position to narrate about his investigation and the evidence collected by him. Learned APP also relied upon the decision of the Hon'ble Apex Court in the case of 'X' Vs. State of Rajasthan & Anr. [Special Leave Petition (Criminal) No. 13378 of 2024] dated 27/11/2024 wherein the Hon'ble Apex Court has held that ordinarily in serious offences like rape, murder, dacoity, etc., once the trial

commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused. Admittedly, it is the right enshrined under Article 21 of the Constitution of India to have a speedy trial and it appears to be violated but considering the fact that now four witnesses are already examined and the roznama which is placed on record which shows that the witness was present, the accused was present, Counsel were present but as the Court was busy in recording the evidence in another case, the witness is not examined. Admittedly, the Courts have to give a precedence to the old cases wherein the accused are behind the bar for years together. As far as the roznama is concerned admittedly it shows that the witness was present but he was not examined. In view of the observation of the Hon'ble Apex Court that it is only in the event of the trial gets unduly delayed and that, too for no fault on the part of the accused, the Court may be justified in ordering his release on bail on the ground that the right of the accused to have a speedy trial has been infringed.

5. I have heard learned Counsel for both the sides and on perusal of the investigation papers as far as the allegations against the present applicants are concerned which are serious in nature to the extent that when the deceased and the informant were proceeding there was a hot exchange of words between them and on that count, they have assaulted the deceased and deceased has sustained the grievous injuries. The postmortem report is on record which shows that the deceased has sustained as many as 15 injuries

which are grievous in nature which are corroborated by the internal injuries also. The death of the deceased is due to the injuries on the vital organs. The appearance of all the applicants along with the raiding weapons at the spot of incident reveals from investigation papers. At the instance of one of the accused i.e. applicant No.4 the sword is recovered. The rest of the weapons are recovered from the spot of incident. During investigation, the other circumstantial evidence is also collected which are in the nature of the blood stained cloths, blood stains on the spot of incident which is already forwarded to the chemical analysis and chemical analysis reports are received.

6. As far as the involvement of the present applicants is concerned which reveals from the statement of the various witnesses. It is submitted by the learned Counsel for the applicants that one of the eye-witness is examined by the prosecution who has not supported the prosecution case who is the informant who has lodged the report and other three eye-witnesses are left by the prosecution agency as they were dropped. It is submitted that considering one of the eye-witness who is examined has not supported the prosecution case and other witnesses are already dropped by the prosecution. No purpose will be served by keeping the applicants behind bar.

7. Considering the fact that now the trial is already commenced and the statement of the learned APP that only four witnesses are remained to be examined, the application deserves to be rejected.

8. Hence, the application is rejected accordingly.
9. The trial Court shall give a precedence to the present trial wherein the accused is behind bar since last four years by examining the witness.
10. The liberty is granted to the applicant to move to this Court after two months, if trial is not commenced.

(URMILA JOSHI-PHALKE, J.)

**Divya*