



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPEAL NO.494/2025

Mainu s/o Pandu Dorpeti .vs. State of Maharashtra

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

Court's or Judge's orders

Mr. H. P. Lingayat, Advocate for appellant.

Mr. S. A. Ashirgade, A.P.P. for respondent.

CORAM : ANIL L. PANSARE AND RAJ D. WAKODE, JJ.

DATE : DECEMBER 19, 2025.

On 12.11.2025, following order was passed

One of the reasons why the appellant is seeking bail is that previous sanction to prosecute him under the provisions of the Unlawful Activities (Prevention) Act, 1967 (for short, "UAPA Act") was not obtained. The counsel for the appellant submits that, in fact, proposal for obtaining sanction was itself not forwarded.

2. As such, the appellant is chargesheeted for the offences punishable under Sections 307, 353, 143, 147, 148, 149 and 120-B of the Indian Penal Code, 1860, Section 135 of the Maharashtra Police Act, 1951, Section 5/28 of the Indian Arms Act, and Sections 16, 18, 20 and 23 of the UAPA Act. However, since the sanction to prosecute him under the provisions of the UAPA Act is not obtained, the appellant is pressing for bail alleging that he is in jail for last more than four years.

3. The counsel for the appellant submits that though the trial has commenced, the second witness, who is a police officer, has been examined on 27th May, 2024; however, the witness has not turned up for cross-examination and same is pending for her presence.

4. Learned APP shall take instructions as to what steps were taken to present the second witness before the Court.

5. List on 2nd December, 2025."

2 Thus, the appellant is pressing for bail, mainly on two grounds. One is that previous sanction to prosecute him under the provisions of the UAPA Act was not obtained. Another is that though trial has commenced, the second witness, who is a police officer, is

not appearing before the Court for cross-examination for more than one year.

3. The appeal was then heard on 02.12.2025, when following order was passed.

“Heard for some time.

2] In continuation to order dated 12/11/2025, the Counsel for the appellant submits that the second witness, who is a Police Officer, has not yet turned-up. Thus, though trial commenced, the second witness is not presented for cross-examination for last more than one year.

3] On the point of sanction, the learned A.P.P. submits that sanction was granted on 4/4/2022. The chargesheet appears to have been filed on 9/5/2022, however, copy of sanction order was not annexed with the chargesheet.

4] The Counsel for the appellant submits that copy of sanction is not filed on record till today and, therefore, the appellant had no occasion to challenge the sanction order. Accordingly, he pressed for releasing the appellant on bail.

5] The learned A.P.P. has then opposed the bail on the ground that weapons were recovered at the instance of the appellant.

6] This submission has been countered by the Counsel for the appellant by inviting our attention to the remand order dated 27/10/2021 passed by the trial Court, wherein, the Court noted that the appellant understands only Telugu language, as against, the memorandum panchanama is written in Marathi, and more importantly, what is stated in the panchanama is that the appellant made statement in Marathi.

7] The Counsel for the appellant submits that on merit also, there is absolutely nothing against the appellant. He, along with 10-15 others, are blamed for causing fire in the night. The First Information Report (FIR) indicates that PW2 has lodged report saying that she heard various names at the time of incident. Someone was giving directions to few Naxalites to target one part of the spot, and others were given directions to target another. Various names were taken, one of which is “Mainu”, the name of the appellant.

8] The argument is that neither PW2 nor any other witness has seen this person named “Mainu”. The appellant has been roped-in only on the count that his

name is "Mainu". There is no evidence that he was present on the spot at the relevant time. He was arrested after five months of lodging FIR.

9] Considering above lapses, which includes delay in trial, failure of prosecution to place on record sanction order, and absence of proof of involvement of the appellant in crime, the Counsel for the appellant is seeking bail.

10] The learned A.P.P. seeks time to take instructions. Granted.

11] In the meantime, the appellant shall place on record document/s to show that he has roots in the vicinity.

12] Stand over to 9/12/2025."

4. As could be seen, though learned A.P.P. submitted that sanction was obtained prior to filing charge-sheet, the same was not placed, rather is not placed on record till today. So far as recovery of weapon is concerned, panchanama indicates that the discovery was made by appellant in Marathi language whereas when the appellant was produced before the Trial Court during remand, the Court noted that the appellant understands only Telugu language. Thus, the argument is that panchanama under Section 27 of the Indian Evidence Act, 1872 is extremely doubtful. It further appears, though prima facie, that the appellant is put to trial on the ground that during the attack on police station at the hands of the alleged Naxalites, when they were giving directions to each other, one of the names uttered was "Mainu", the name of appellant. Argument is that none of the witnesses have seen and described this person named "Mainu". He was arrested after five months of lodging FIR.

5. Considering the above, which includes delay in trial, and failure of prosecution to place on record sanction order as also the role assigned to him, we are of the considered view that the appellant is entitled to be released on bail.

6. When inquired, learned A.P.P. submits that the family members and the relatives of appellant are residing in the vicinity. In fact, the appellant has placed on record various documents to show

his roots in the vicinity. The details are recorded in our order dated 09.12.2025.

7. Thus, it appears that the appellant has roots in the vicinity. Therefore, the chances of his fleeing away are remote. Accordingly, we pass the following order.

ORDER

- (i) The appeal is allowed.
- (ii) Impugned order dated 01.03.2024, passed by Additional Sessions Judge, Aheri, below Exh.-5 in Sessions Trial No. 111/2023 (Old Sessions Trial No. 44/2022), is quashed and set aside.
- (iii) Appellant – Mainu s/o Pandu Dorpeti, be released on bail on he executing PR Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.
- (iv) The appellant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court concerned and shall not change the same till the final disposal of the case.
- (v) The appellant shall attend Police Station, Etapalli, Tq. Etapalli, Dist. Gadchiroli, twice in a month i.e. on first and third Monday of every month between 11:00 a.m. and 02:00 p.m.
- (vi) The appellant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.
- (vii) The appellant shall regularly attend the Court and cooperate the learned Trial Court to complete the trial for the above offence. The appellant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.
- (viii) The appellant shall maintain law and order.
- (ix) In case of breach of any conditions, the learned Trial Court shall be at liberty to cancel the bail after giving opportunity of hearing to both the sides.

(JUDGE)

(JUDGE)