



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

CRIMINAL APPLICATION (BA) NO.682/2025

Suresh s/o Chindhuji Patrikar

..VS..

State of Maharashtra, thr.PSO PS Yavatmal (Rural), Yavatmal

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

Court's or Judge's Order

Shri R.M.Daga, Counsel for the Applicant.
Shri Amit Madiwale, Additional Public Prosecutor for the State.
Shri V.D.Darne, Counsel for the Complainant.

CORAM : **URMILA JOSHI-PHALKE, J.**

CLOSED ON : **22/07/2025**

PRONOUNCED ON : **31/07/2025**

1. By this application under Section 483 of the BNSS, the applicant seeks regular bail in connection with Crime No.59/2022 registered with the non-applicant/police station for offences under Sections 120-B, 143, 147, 148, 149, 201, 302, 323, 324, and 506 of the IPC and under Sections 3, 25, and 27, of the Arms Act.

2. The applicant came to be arrested on 4.2.2022

and since then he is in jail.

3. The crime is registered on the basis of report lodged by Anuprita Diware, who is wife of Sunil (the deceased). As per her report, there was previous disputes and enmity amongst the applicant and other co-accused and the deceased. The disputes were over issue of management of school and over issue of removal of encroachment. On 3.2.2022, at 7:30 pm, when she was sitting in the courtyard along with the deceased and her son, the applicant along with other co-accused came in the courtyard and asked the deceased to withdraw complaint lodged by him to which the deceased refused and, therefore, co-accused Rohit fired two bullets in air and, thereafter, towards the deceased. On receiving the bullet injury, the deceased fell down on the ground and, thereafter, all the accused assaulted him by means of axe and iron rods. It is alleged that when the complainant tried to intervene, the applicant caught hold and assaulted

her by means of axe on her thigh. Due to the injuries sustained, the deceased succumbed to the injuries. On the basis of the said report, the police registered the crime against the applicant.

4. Earlier two bail applications of the applicant are rejected by this court.

5. Now, the present application is filed on ground of delay in trial.

6. Heard learned counsel Shri R.M.Daga for the applicant, learned Additional Public Prosecutor Shri Amit Madiwale for the State, and learned counsel Shri V.D.Darne for the complainant.

7. learned counsel for the applicant submitted that as far as role of the applicant is concerned, the same is very limited to the extent of holding the complainant and, thereafter, other co-accused gave a blow on the thigh of the complainant by means of axe. Thus, involvement of the applicant is not in actual incident. He further

submitted that since the date of arrest i.e. 4.2.2022 the applicant is behind the bars, charges are not yet framed, there is delay in trial and, therefore, he be released on bail.

8. In support of his contentions, learned counsel for the applicant placed reliance on following decisions:

1. Special Leave to Appeal (Cri.) No.8523/2024 (Balwinder Singh vs. State of Punjab and anr), decided by the Hon'ble Apex Court on 9.9.2024, and

2. Criminal Application (BA) No.21/2025 (Gurudev Bhimrao Gedam vs. State of Mah) decided by this court on 27.6.2025.

He submitted that as right of the applicant of speedy trial enshrined under Article 21 of the Constitution of India is affected, he be released on bail.

9. *Per contra*, learned Additional Public Prosecutor for the State and learned counsel for the complainant strongly opposed the application on ground

that earlier two bail applications on merits are rejected. The trial is not delayed on account of the prosecution, but Roznama shows that time to time several applications are filed by the accused persons and adjournments are sought for hearing of the said applications. The other co-accused have also filed discharge applications and, therefore, the charge could not be framed and the trial is not progressed. Learned Judge of the trial court itself observed in its order that now the trial can be proceeded and this court (District Court) will ensure that the charge is framed at the earliest and rejected the applications. In view of that, the application deserves to be rejected.

In support of his contentions, learned Additional Public Prosecutor for the State placed reliance on **Special Leave to Appeal (Cri) No.13378/2024 (X vs. State of Rajasthan and anr) decided by the Hon'ble Apex Court on 26.11.2024.**

10. After hearing both the sides and perusing the

chargesheet, it can be seen that immediately after the incident, the FIR came to be lodged and all the accused persons including the applicant were named in the FIR. The complainant and her son are eye witnesses to the incident and witnesses namely Nikhil Karpate, Suraj Diware, Girish Diware, and Swapnil Diware witnessed the applicant and other co-accused at the spot and they fled away from the spot of the incident. The allegations against the applicant are that he was member of “unlawful assembly” and in pursuance of common object of the said assembly, they eliminated the deceased and, therefore, role of the applicant is immaterial. Thus, as far as merits of the matter is concerned, involvement of the applicant reveals and, therefore, the application deserves to be rejected.

11. Earlier, bail application of the applicant bearing Criminal Application BA No.683/2022 was rejected by this court on merits. Thereafter, the applicant

approached the Sessions Court. Again, he filed bail application bearing Criminal Application BA No.782/2023 which was also rejected by this court, however liberty was granted to the applicant to move a fresh application before the trial court if no charge is framed or no substantial progress is made in next one year. The said order was passed on 24.1.2024. The applicant has also approached the Hon'ble Apex Court and the Hon'ble Apex Court has also dismissed the special leave petition and also requested learned Judge of the Trial Court to take up the case as expeditiously as possible.

12. The Roznama on record shows that since 9.11.2023 various applications are filed including applications for grant of bail and for discharge. On some of occasions, the accused persons remained absent who are released on bail, and, therefore, the charge could not be framed. The Roznama further shows that adjournment applications are also filed by the accused persons for

hearing on discharge applications.

13. Thus, it is relevant to note that it is not because that the accused persons are not produced and charge is not framed, but on various occasions, though the accused persons were produced, the accused on bail were absent and, therefore, the charge could not be framed.

14. Insofar as right of the accused of speedy trial enshrined under Article 21 of the Constitution is concerned, which is a fundamental right. It is also true that Article 21 of the Constitution applies irrespective of the nature of the crime. At the same time, the observations recently made by the Hon'ble Apex in the case of **X vs. State of Rajasthan** *supra*, are relevant wherein the Hon'ble Apex Court observed 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. The moment the High Court exercises its discretion in favour of the accused and orders release of the accused on bail by looking into the deposition of the victim, it will have its own impact on the pending trial when it comes to appreciating the oral evidence of the victim. It is only in the event if 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 right of the accused to have a speedy trial has been infringed.”

15. In the light of the above observations, perusal of the Roznama reveals that the trial is delayed as various applications are filed by the accused persons including the discharge applications, on various occasions adjournments are sought, and on various occasions accused persons on bail were not present and, therefore, the charge could not be framed. Learned Judge of the trial court has also noted this fact and also noted that considering the accused is

behind the bars for more than three years, charge can be framed expeditiously and the trial can be disposed of. The directions can be given to learned Judge of the trial court to dispose of the trial expeditiously by framing the charge.

16. In this view of the matter, the criminal application is **rejected**. Order accordingly.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!