



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

CRIMINAL APPLICATION (BA) NO.759 OF 2025

Narendra Fattu Pipardhare

Vs.

State of Maharashtra, through Police Station, Gobarwahi,
District Bhandara

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

Court's or Judge's orders

Mr. Anil Mardikar, Senior Counsel a/b Mr. D. N. Mehta, Counsel for the
applicant.

Mr. D. V. Chavan, Public Prosecutor (Senior Counsel) a/b Mr. N. B. Jawade,
APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 22/08/2025

1. By this application, the applicant seeks regular bail in connection with Crime No.291/2023 registered with the non-applicant/police station for offences punishable under Sections 120-B, 143, 147, 148, 149, 201, 212, 216 and 302, of the Indian Penal Code and under Sections 3/25, 4/25, 27 of the Arms Act and under Section 135 of the Maharashtra Police Act and under Sections 3(1)(i), 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act).

2. The applicant is arrested on 29.12.2023 and since then he is in jail.

3. The crime is registered on the basis of a report lodged by Shahid Ahmad Khan Pathan (the

informant), who is working as Supervisor with "Shri Sai Minerals Company". As per allegations, Naeem Siraj Sheikh (the deceased) was acquainted with the informant as he was resident of the same village. On 24.09.2023, the deceased called the informant and informed that he has to visit Tirora for checking Manganese Samples. On 25.09.2023, the informant reached the house of the deceased at about 12:00 noon and they both proceeded in a "White Creta Car" bearing registration No.MH-36/Z-0241. One Javed and Ratna Pal were also along with them. At Tirora, one person shown Sample of Manganese to the deceased at one Tea Stall and, therefore, they started for Tumsar at about 3:00 pm. At around 5:00 pm, they reached mouza Gobwerwahi Railway Gate and as the Railway Gate was closed, they were waiting for passing the train. At the relevant time, suddenly, some persons, including co-accused Santosh Dahat and Satish Dahat got down from "White Tavera Car" bearing registration No.MH-31/EU/1290 and Santosh Dahat fired bullets two times towards the deceased. Co-accused Satish Dahat also broke glasses of the Car. As bullet hit the deceased, the deceased was lying in a pool of blood and other co-accused also assaulted him. On the basis of the said report, the police registered the crime against the applicant.

4. Heard learned Senior Counsel for the applicant, who submitted that the other co-accused

who is the brother of the present applicant Surendra is already released on bail by the Hon'ble Aepx Court in a **Special Leave Petition (Crl.) No.5139/2025 [Surendra Vs. State of Maharashtra]** on the ground of delay in trial against whom more serious charges are levelled. As far as the present applicant is concerned, he is also behind the bar since 29.12.2023. He submitted that as the trial was not commenced till filing of the application and therefore, the right of the present applicant enshrined under Article 21 of the Constitution as to the speedy trial is violated and therefore, he deserves to be released on bail. As far as the merits of the matter is concerned, he has invited my attention towards the provisions of the Maharashtra Control of Organised Crime Act, 1999 and the approval order as well as order of sanction granted under Section 23 (2) of the MCOC Act. He submitted that cognizance cannot be taken against the present applicant as sanction was not granted by the sanctioning authority to launch prosecution against the present applicant as far as the provisions of the MCOC Act are concerned. He has also taken me through the entire record and submitted that the offences registered against the present applicant which nowhere attract the provisions of MCOC Act and therefore, for all the above grounds, he be released on bail.

5. As far as the merits of the matter is concerned, it is already considered and after

considering, this Court has shown the disinclination to grant bail and therefore, on the same ground the application of the present applicant for grant of bail cannot be considered. This aspect is recently considered by the coordinate Bench at Principal Seat in **Bail Application No.1856/2024 [Vaibhav Babanrao Devkate vs. The State of Maharashtra] decided on 18.08.2025** and it is observed that "The law in this regard is well settled. When a bail application, after filing of charge-sheet, is withdrawn by the accused, such withdrawal amounts in substance to a dismissal of the application. The Court clarified that in such cases, a subsequent application would be maintainable only if the accused is able to point out a fresh ground or material change in circumstances."

6. It is further observed that "The reason behind this principle is simple. When a bail application is heard, and the Court is not willing to grant bail, it normally has to give reasons for rejecting the request. These reasons, once recorded in the Court's order, become part of the case record and may be construed against the accused at the time of trial (may be erroneously), as they may show prima facie findings against him. To avoid such observations affecting the accused later, the lawyer for the accused often asks the Court to allow withdrawal of the application. The Court, being fair, usually allows this withdrawal. But once a bail

application is filed and then withdrawn, it cannot be treated as if it was never filed. In effect, it amounts to dismissal of the application, only without detailed reasons. The difference is only in form, not in effect.”

7. In view of the above observations, which I am in agreement with the application for grant of bail as far as the merits of the matter is concerned cannot be entertained.

8. Now considering the another ground i.e. delay in trial as already observed that the Hon’ble Apex Court has considered the application of the co-accused Surendra and it is observed that “We are inclined to set aside the impugned order passed by the High Court only on the premise that the appellant has been under incarceration for about one year and seven months. It is submitted by the learned Counsel appearing for the respondent-State that the charges were framed very recently and the trial has just commenced and thus, is likely to take time to conclude”, and thereafter released on bail. Thus, the Hon’ble Apex Court has considered the fact that the appellant is behind bar since one year and seven months and though the trial is commenced the request of the appellant therein was considered and he was released on bail. In respect of the present applicant is also admittedly one witness is examined by the prosecution who is panch witness recording of his evidence is not yet completed. Admittedly, as

observed by the Hon'ble Apex Court the trial will take its own time for its final disposal. The right of the present applicant enshrined under Article 21 of the Constitution is violated as he is incarcerated and behind the bars since 29.12.2023 i.e. more than two years.

9. 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.

10. In the light of the above observations of the Hon'ble Apex Court the present applicant has made out a case for grant of bail. In view of that I proceed to pass following order:

ORDER

(i) The application is allowed.

(ii) The applicant **Narendra Fattu Pipardhare** shall be released on bail in connection with Crime No.291/2023 registered

with the non-applicant/police station for offences punishable under Sections 120-B, 143, 147, 148, 149, 201, 212, 216 and 302 of the Indian Penal Code and under Sections 3/25, 4/25, 27 of the Arms Act and under Section 135 of the Maharashtra Police Act and under Sections 3(1)(i), 3(1)(ii), 3(2), 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (MCOC Act), on executing PR Bond in the sum of Rs.50,000/- with one solvent surety of the like amount.

(iii) The applicant shall attend the proceeding before the trial Court without seeking any exemption unless there are exceptional circumstances and shall cooperate with the trial court to dispose of the trial at the earliest.

(iv) The applicant shall attend the concerned Police Station twice in month i.e. 1st and 15th of every month and shall not indulge himself in similar type of the activities. A single registration of the offence of any type would lead to the cancellation of bail.

(v) 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.)