



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

CRIMINAL APPLICATION (APL) NO.1126/2024

XYZ in Crime No. 468/2021 .Vs. State of Maharashtra through PSO P.S. Sitabuldi,
Nagpur and others.

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

Court's or Judge's orders

Applicant in person.

Mr. D. V. Chauhan, Government Pleader-Senior Advocate assisted by
Ms S. Z. Haider, A.P.P. for non applicants-State.

CORAM : ANIL L. PANSARE AND M. M. NERLIKAR, JJ.

DATE : AUGUST 14, 2025

Heard.

2. The application is listed because the applicant has not removed office objections. The objections pertain to faint and shabby pages and also handwritten documents. As such, the applicant had given an undertaking to remove the same within 10 days on earlier occasion. Similar such assurance was given on 16.08.2024. The objections were, however, not removed.

3. Applicant-in-person submits that there is an urgency and accordingly, insisted for hearing the application.

4. Learned A.P.P. submits that since the matter was listed for removal of office objections, the entire file, which is bulky, has been not brought today. Accordingly, she made a request to adjourn the matter for a week.

5. The applicant, however, insisted to hear the application, since according to her, there is an extreme urgency. She further states that the proceeding be recorded in-camera. Her attention was invited to the prayers, to show that in-camera

proceedings may not be warranted. She, however, submitted that she will disclose the reasons after some time. Accordingly, A.PPs. and lawyers present in the Court were requested to go out.

6. We have heard the applicant. She commenced the argument with a statement that she is a sufferer and would expect relief from the Court, which she is awaiting for last 4 years. She further submitted that she has been to the Supreme Court four times. Since, we found these submissions to be irrelevant to decide the prayers, her attention was invited to the prayers and was instructed to make submissions *qua* her prayers. Following are the prayers sought in the application:

“Specific Prayer: In the light of the above mentioned facts and circumstances of the case whereby the petitioner is totally hopeless of getting any justice in ST-196/2022 and in FIR-468/2021, that's why the petitioner most humbly and respectfully prays that in the peculiar facts and circumstances of the present case this Hon'ble Court may kindly be pleased to grant the following reliefs:

- a) Allow the present application.,*
- b) Put stay on the trial ST-196/2022 (State of Maharashtra versus Gaurav Jagnani and others) pending in the Hon'ble court of District Judge-10 ASJ Nagpur till the final judgement of this application.,*
- c) Directions to be given to the Central Investigating Agency to bring out the CDR(Call Data Records), records, to seize all the mobile / laptops ..etc electronic devices of the accused persons, to recover all datas pertaining to the vitality of the case and to attain justice in it. (whats up chats, text messages, recordings..etc), Bank account details and whatever can be recovered from their phones and laptops to attain justice and*

for the fair trial in ST- 196/2022 in FIR – 468/2021.

d) Directions to be given to the Central Forensic laboratories for the FSL (Forensic Lab Test) Report of the all the electronic devices i.e (Mobile phones containing her personal information) in possession of the petitioner having evidences against the accused persons in FIR-468/2021 and the respondents to be done in petitioner's personal presence so that the devices and her evidences in it cannot be deleted or tampered and to be conducted under CCTV surveillance to protect her Article 21, privacy and evidences.

e) Directions to be given in the Trial ST-196/2022 pending in the court of Hon'ble District Judge -10 ASJ Nagpur to protect the rights of the petitioner subject to article 21, 14 and 19 in the trial court for attaining justice, for the execution of the Supreme Court orders & the trial to be recorded and conducted under CCTV camera surveillance to avoid further miscarriage of injustices.

f) Directions to be given to the respondent no-1, 4 to file the FIR's against the accused persons in FIR-468/2021, and others involved in the crimes against the petitioner.

g) Directions to be given for the 164 CRPC statement of the petitioner to be recorded again in FIR-468/2021 as she gave earlier in coercion and under threats.

h) To Quash the two fake Non Cognisable Reports filed by the respondent 1, 2 & 3 in connivance with the accused & their counsels in FIR-468/2021 and respondents 8 & 9.

i) Grant any other relief in the facts and circumstances of this which this Hon'ble Court may deem fit in the best interest of justice.”

7. With these prayers, and having heard for some time, we pointed out to the applicant that the relief sought under prayer clauses (c), (d), (e) and (f) are in the nature of further investigation, or the relief that could be granted by the Trial

Court, for which she should approach the Trial Court. As such, in prayer clause (c), the direction is sought for investigation through CID, the relief sought, however, can well be achieved through existing investigating agency.

8. In response, she submits that she will restrict her argument to prayer clause (b). We have heard her accordingly. She submits that the judge, who was dealing with the Sessions Trial, has been now transferred.

9. As could be seen, this submission has no relevance to stay the trial. Further, her prayer is to stay trial pending present application. She was informed that the application is being decided today, to which she said that the trial should be stayed for four months so that she can avail an appropriate remedy. She submits that in India, it takes time to reach the Court and obtain relief.

10. We find these submissions to be wholly irrelevant. Firstly, the transfer of judge has no concern with the stay to the trial. Secondly, if application itself is being decided today, there would arise no question of keeping the trial under stay because the prayer itself is made to stay the trial pending application. Moreso because vide order dated 19.08.2024, the request to stay the trial was refused. Thus, interim relief was refused.

11. The applicant then submits that the trial should be stayed because the order of Supreme Court has to be complied. She has invited our attention to order dated 31.01.2024 passed by the Supreme Court in Special Leave to Appeal (Criminal)

No.16583/2023, which was filed by the applicant. The Court observed as under :

“...On hearing the petitioner who has appeared in-person, we find that the High Court has rightly observed that if the petitioner is seeking any prayer(s) with regard to the sessions case pending before the Sessions court, she shall seek those prayers before the said Court in accordance with law and those prayers shall be considered without being influenced by the disposal of the Criminal writ Petition by the High Court.

...

...

It is further observed that she is at liberty to assist the Public Prosecutor who is in-charge of the trial and make available all documents and facts of the case to him/her so as to effectively prosecute the case.”

12. Thus, what the Hon’ble Supreme Court has stated is that the applicant may approach the Trial Court for the prayers pertaining to the proceedings and that she is at liberty to assist the Public Prosecutor concerned.

13. When inquired as to how are these findings relevant to stay the Sessions Trial, the applicant started making wild allegations. She submits that she is not allowed by the Trial Court to enter the Court and that the counsel appearing for the accused is not allowing her to enter the Court. She made allegations against non applicant No.9, the Advocate, who is said to be appearing before the Trial Court that he has made complaint to the Sessions Court that the applicant is making hue and cry outside the Court and so on.

14. In our view, the aforesaid submissions are made without any verifiable material and, therefore, cannot be

acceded to. She has then invited our attention to another judgment of the Supreme Court rendered in the case of *Jageet Singh & Ors. Vs. Ashish Mishra @ Monu & Anr., Criminal Appeal No. 632/2022*. One of the questions that was considered by the Hon'ble Supreme Court was, "Whether the 'Victim', defined under Section 2 (wa) of the Criminal Procedure Code, 1973 is entitled to be heard at the stage of adjudication of bail application of accused?"

15. The applicant has drawn our attention to paragraph 20 of the judgment wherein the Supreme Court observed that the victim's right to participate in criminal trial and his/her right to know the status of the investigation and take necessary steps or to be heard at every crucial stage of the criminal proceedings including at the time of grant or cancellation of the bail were also duly recognized by the Committee.

16. Hearing such submissions, again a query was made as to how is this part of judgment relevant to stay the Sessions Trial, the applicant submits that she should get justice. She further submits that she has been beaten at various Courts and including in the premises of this Court. She further submits that police are coming to her house for no good reason.

17. She was informed that these submissions would not help her to seek stay to the Trial. Thereupon, the applicant posed a question, will this Court not quash the First Information Report filed by non applicant Nos.1, 2 and 3 in connivance with accused and their counsel in FIR No.468/2021 and non applicant Nos. 8 and 9 [prayer clause (h)].

18. We find this question to be illogical, in the sense, the manner in which the arguments are made where the applicant has not uttered a word about the contents of the aforesaid FIR, the expectation of the applicant that this Court will quash the FIR, would not stand to the scrutiny of law.

19. It is worth mentioning here that the applicant has, in her statement recorded under Section 164 of the Criminal Procedure Code, 1973, given clean chit to the accused persons. She has, by way of prayer clause (g), sought directions to declare the said statement have been obtained under coercion and under threat. Such relief, which deals with the allegations of coercion and threat, without evidence in support, could not be granted. In any case, if she wants to withdraw from the statement recorded by the competent Court, the remedy available will be before the Trial Court where her modified statement will be tested by the other side in cross-examination.

20. Put all together, we find that there is absolutely no merit in the application. The application is accordingly rejected.

(M. M. Nerlikar, J.)

(Anil L. Pansare, J.)