



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

CRIMINAL APPLICATION (BA) NO. 872/2025

Munnibai @ Chunnibai Dwarkaparasad Lilhare

Vs.

The 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. M. N. Ali, Advocate for the Applicant.

Ms M. A. Barabde, A.P.P. for the Non-applicant/State.

CORAM : MRS.VRUSHALI V. JOSHI,J.

DATED : 09/10/2025.

. Heard.

2. The applicant is arrested in Crime No.235/2023 registered with Police Station, Jaripataka, District Nagpur for the offences punishable under Sections 363, 370, 506 read with 34 of the Indian Penal Code.

3. It is alleged that the accused along with other co-accused have sold the male child of 15 days to accused No.6 for a consideration of Rs.25,000/- in March 2022. Accused Nos.1 and 2 have taken the child of the informant and handed over to accused No.6 and threatened the informant to kill, if she makes complaint to the Police. Thereafter, accused No.6 has sold the said child to accused No.3. The informant is a mother of the child and she has lodged the report against accused Nos.1 and 2 on 05.04.2023. On receiving the information, the crime is registered.

4. The learned Counsel for the applicant has filed this application on the ground of delay in trial. Since 2023 the applicant is in jail. As the offence is registered under Section 370 of the I.P.C., the learned Counsel for the

applicant has stated that the offence under Section 370 will not be attracted as it was not the case of exploitation. The mother of the child is widow. She has stated that she cannot maintain him and it is not possible for her to take care of the child and, therefore, the applicant had taken care of her and after delivery it is alleged that she along with other lady has handed over it to the needy person. The allegation about taken Rs.25,000/- is against the other lady. She has not taken any amount. On the ground of delay, the learned Counsel for the applicant has relied on the judgment of the Hon'ble Apex Court in the case of *Surendra Vs. State of Maharashtra [Criminal Appeal arising out of SLP (Criminal) No.5139/2025]*. In said case, the delay is of one year and seven months. Though the charges were framed considering the time to conclude the trial, bail was granted. He has also relied on the judgment of the Hon'ble Apex Court in *Javed Gulam Nabi Shaikh Vs. State of Maharashtra and Anr. [2024 DGLS (SC) 668]*, wherein it is observed in paragraph Nos.17 and 18 as under :

*“17. In the recent decision, **Satender Kumar Antil v. Central Bureau of Investigation**, (2022) 10 SCC 51, prolonged incarceration and inordinate delay engaged the attention of the court, which considered the correct approach towards bail, with respect to several enactments, including Section 37 NDPS Act. The court expressed the opinion that Section 436A (which requires inter alia the accused to be enlarged on bail if the trial is not concluded within specified periods) of the Criminal Procedure Code, 1973 would apply:*

“We do not wish to deal with individual enactments as each special Act has got an objective behind it, followed by the rigour imposed. The general principle governing delay would apply to these categories also. To make it clear, the provision contained in Section 436-A of the Code would apply to the Special Acts also in the absence of any specific provision. For example, the rigour as provided under Section 37 of the NDPS Act would not come in the way in such a case as we are dealing with the liberty of a person. We do feel that more the rigour, the quicker the adjudication ought to be. After all, in these types of cases number of witnesses would be very less and there may not be any justification for prolonging the trial. Perhaps there is a need to comply with the directions of this Court to expedite the process and also a stricter compliance of Section 309 of the Code.”

18. Criminals are not born out but made. The human potential in everyone is good and so, never write off any criminal as beyond redemption. This humanist fundamental is often missed when dealing with delinquents, juvenile and adult. Indeed, every saint has a past and every sinner a future. When a crime is committed, a variety of factors is responsible for making the offender commit the crime. Those factors may be social and economic, may be, the result of value erosion or parental neglect; may be, because of the stress of circumstances, or the manifestation of temptations in a milieu of affluence contrasted with indigence or other privations.”

He has also relied on the judgment of the Hon’ble Apex Court in *Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh [2024 DGLS (SC) 664]*, wherein it is observed in paragraph No.32 as under :

“32. This Court has, time and again, emphasized that right to life and personal liberty enshrined under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the accused-undertrial under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in favour of constitutionalism and the rule of law of which liberty is an intrinsic part. In the given facts of a particular case, a constitutional court may decline to grant bail. But it would be very wrong to say that under a particular statute, bail cannot be granted. It would run counter to the very grain of our constitutional jurisprudence. In any view of the matter, K.A. Najeeb (supra) being rendered by a three Judge Bench is binding on a Bench of two Judges like us.”

Placing reliance on the observations made by the Hon’ble Apex Court, prayed to release the applicant on bail.

5. The learned A.P.P. opposed the application stating that since last one and half year, the applicant is in jail. There is no such delay in trial. There is one more offence of similar nature. She is habitual and she used to sell the infant child. Considering the gravity of the offence and as there is no delay, prayed to reject the application.

6. Heard both the learned Counsel for the respective parties.

7. Considering the observations made by the Trial Court, it appears that since last one and half year, the

applicant is in jail. On perusal of the status report of the trial, it appears that the charges are still not framed. The trial was listed for framing of charge on 19.09.2025. As per order sheet, it appears that the charge is not framed till today. As Article 21 of the Constitution of India applies irrespective of the nature of the crime, the applicant is required to be released on bail. Accordingly, I proceed to pass the following order :

- i] The criminal application is allowed.
- ii] The applicant shall be released on bail in connection with Crime No.235/2023 registered with Police Station, Jaripataka, District Nagpur for the offences punishable under Sections 363, 370, 506 read with Section 34 of the Indian Penal Code, on furnishing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.
- iii] The applicant shall not in any way tamper with the prosecution evidence.
- iv] The applicant shall not pressurize or threaten the prosecution witnesses.
- v] The applicant shall attend the concerned police station on every Monday and Saturday between 1:00 p.m. to 2:00 p.m.
- vi] If any further offence is committed by the applicant, the prosecution is at liberty to move application for cancellation of the bail.

vii] The applicant shall co-operate the Investigation Officer.

The Criminal application is disposed of accordingly.

(MRS. VRUSHALI V. JOSHI, J.)