



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

CRIMINAL APPLICATION (BA) NO. 893/2025

Shri Shubham @ Bobby S/o. Sukhsagar Shahu

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. S. D. Chande, Advocate for the Applicant.

Mr. A. J. Gohokar, A.P.P. for the Non-applicant/State.

CORAM : MRS.VRUSHALI V. JOSHI,J.

DATED : 08/10/2025.

. Heard.

2. The applicant is arrested in Crime No.279/2022 registered at Police Station, Ranaprata Ngar, District Nagpur for the offences punishable under Section 302 read with Section 34 of the Indian Penal Code.

3. One of the ground of the applicant is that there is delay in trial. On 11.10.2023, the application filed by the applicant was withdrawn with liberty if the trial is not concluded within a period of one year, then the applicant has liberty to file the application. The applicant is in jail since 20.07.2022.

4. The prosecution case is that, on 19.07.2022, this applicant and co-accused took the deceased in their car and asked about the whereabouts of friend Rohit Lokhande. They called said Rohit Lokhande through the mobile phone of the deceased. The call was received by Rohit Lokhande and talks held between them. The deceased tried to flee from the clutches of the applicant, but the applicant and co-accused chased him, caught him and assaulted him. The co-accused assaulted him on his head with hammer and the applicant assaulted him with stone, which resulted into his death.

5. The learned Counsel for the applicant has stated that as per the status report, though the trial is initiated and witnesses are examined, this Court has released the accused on bail even when one witness was remained to be examined. He has relied on the orders of this Court passed in Criminal Application (BA) Nos.72/2025 and 759/2025. As the trial could not be concluded within a period of one year and since last three years, the applicant is in jail, the main witness on whose say, the crime was disclosed, is no more and out of twelve witnesses, three are turned hostile, nothing is remained in the trial.

Corrected as per
Court's Order dated
12.11.2025.

6. The prosecution has relied on the judgment of the Hon'ble Apex Court in the case of ***X Vs. State of Rajasthan and Anr. [Special Leave Petition (Criminal) No.13378/2024]***, wherein the Hon'ble Apex Court has observed in paragraph Nos.14, 15 and 16 as under :

"14. 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.

15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim.

16. We are of the view that the aforesaid is not a correct practice that the Courts below should adopt. Once the trial commences, it should be allowed to reach to its final conclusion which may either result

in the conviction of the accused or acquittal 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.”

7. The Hon’ble Apex Court has considered Criminal Appeal No.738/2025 [Arising out of SLP (Criminal) No.15971/2024], and granted bail.

8. The learned A.P.P. has opposed the application stating that there is ample evidence against this applicant. The blood stained clothes are recovered. There is video recording in the mobile of this applicant. As per the judgment of the Hon’ble Apex in the case of **X Vs. State of Rajasthan and Anr.** (*supra*), after initiation of the trial, direction is given to the Trial Court, 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 for the accused. On merits, the case is strong against the applicant. At this stage, this is not a fit case to release the applicant on bail. Hence, prayed to reject the application.

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

10. It appears from the record that on 11.10.2023, this Court has passed the order and allow to withdraw the application with liberty to file afresh if the trial is not

concluded within one year. On perusal of the status report of this case, it appears that twelve witnesses are examined and 4-5 witnesses are still remained to be examined. The applicant has stated that, the main witness Rohit Lokhande is no more. The maximum witnesses are turned hostile. There are less chances of conviction of this applicant.

Corrected as per
Court's Order dated
12.11.2025.

11. After going through the judgment of the Hon'ble Apex Court in the case of **X Vs. State of Rajasthan and Anr.** (*supra*), in paragraph No.15 it is observed as under :

"15. Over a period of time, we have noticed two things, i.e., (i) either bail is granted after the charge is framed and just before the victim is to be examined by the prosecution before the trial court, or (ii) bail is granted once the recording of the oral evidence of the victim is complete by looking into some discrepancies here or there in the deposition and thereby testing the credibility of the victim."

12. The applicant has also relied on the judgment of the Hon'ble Apex Court in the case of **Tapas Kumar Palit Vs. State of Chhattisgarh [Criminal Appeal No.738/2025 (Arising out of SLP (Criminal) No.15971/2024)]**, wherein in paragraph No. 6, it is observed as under :

"6. The trial is in progress. Till this date the prosecution has been able to examine 42 witnesses. The prosecution intends to examine as many as 100 witnesses. We are conscious of the Order passed by us taking the view that once the trial commences and the witnesses are being examined then in serious crimes like murder, dacoity, rape, etc, the Court ordinarily should not exercise its discretion for the purpose of grant of bail, more particularly, looking into the evidence which has come on record."

13. Considering the judgment of the Hon'ble Apex Court and as there is delay in trial and 4 to 5 witnesses are still remained to be examined, the applicant deserves to be released on bail. Accordingly, I pass following order:

- i] The criminal application is allowed.
- ii] The applicant shall be released on bail in connection with Crime No.279/2022 registered at Police Station, Ranapratap Nagar, District Nagpur for the offences punishable under Section 302 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] The applicant shall co-operate the investigation officer.

The Criminal application is disposed of accordingly.

(MRS. VRUSHALI V. JOSHI, J.)