



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

CRIMINAL APPLICATION (BA) NO. 1091/2025

Amol Dineshrao Jondhale 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. A. C. Khadse, Advocate for the Applicant.

Mr. V. A. Thakare, A.P.P. for the Non-applicant/State.

CORAM : MRS.VRUSHALI V. JOSHI,J.

DATED : 09/10/2025.

. Heard.

2. This is a second bail application filed by the applicant on the ground of parity and delay in trial. Earlier bail application was rejected on merits. The co-accused having similar role are released on bail by this Court on the ground of delay in trial.

3. The applicant is arrested in Crime No.789/2022 registered with Police Station, Frezarpura, District Amravati for the offences punishable under Sections 302, 307, 294, 143, 147, 148, 149, 354, 109, 504 and 506 of the Indian Penal Code.

4. As the applicant has filed this application on the ground of delay in trial, in earlier bail application, the status report was called and the order was passed on 11.09.2025. Still the charge is not framed in this case. The applicant is in jail since 2022. The allegations against this applicant are made that he has assaulted with knife. The injured is eye witness. The co-accused is released on bail as there is delay in trial. Due to previous enmity, the applicant is implicated in this case.

5. The applicant has relied on the judgments of the Hon'ble Apex Court in the case of *Ankur Chaudhari Vs.*

State of Madhay Pradesh [Special Leave to Appeal (Cri.) No.4648/2024] and *Surendre Vs. State of Maharashtra [Criminal Appeal arising out of SLP (Criminal) No.5139/2025]*, wherein the Hon'ble Apex Court has granted bail on the ground that there is delay in trial. The appellant has been under incarceration for about one year and seven months. He has also relied on the judgments of *Union of India Vs. K. A. Najeeb [(2021) 3 SCC 713]*, *Sheikh Javed Iqbal Vs. State of Uttar Pradesh [Criminal Appeal No.2790/2024]*, all these judgments are about delay in trial. Though the offences are serious, the Hon'ble Apex Court has granted bail. Considering the right of life and liberty enshrined under Article 21 of the Constitution of India is overarching and sacrosanct, the learned Counsel for the applicant has relied on the judgment of the Hon'ble Apex Court in *Sheikh Javed Iqbal Vs. State of Uttar Pradesh [Criminal Appeal No.2790/2024]*, 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.”

It is also observed by the Hon’ble Apex Court in *Ramlal Vs. State of Rajasthan [2024 SCC OnLine SC 2594]* and the bail was granted considering the period of incarceration and as the criminal antecedents were not there. The applicant has stated that two accused persons are already released on bail on the ground of parity. Hence, prayed to release the applicant on bail.

6. The learned A.P.P. has opposed the application stating that there is eye witness in this case. The eye witness has specifically mentioned the role played by this applicant. Only because there is delay, the applicant cannot be released on bail. He has relied on the Full Bench judgment of the Hon’ble Apex Court in the case of *Hussainara Khatoon & Ors vs Home Secretary, State Of Bihar [(1980) 1 SCC 98]*, wherein the guidelines are given while granting bail.

7. He has also relied on the recent judgment of the Hon’ble Apex Court in *State of Karnataka Vs. Shri Darshan Etc. [Criminal Appeal Nos. 3528 - 3534 of 2025 (Arising from SLP (Crl.) Nos. 516 – 522 of 2025)]*, wherein the Hon’ble Apex Court has given guidelines and has observed that filing of charge sheet or lengthy list of witnesses does not justify grant of bail. The mere prospect of a prolonged trial cannot, by itself, outweigh the gravity of the offence, the incriminating material gathered during investigation, or

the likelihood of tampering with witnesses.

8. The learned Counsel for the applicant has stated that this judgment is about the cancellation of bail. Thereafter, there are many judgments wherein considering the delay in trial, the Court has granted bail.

9. The learned A.P.P. has stated that as there is eye witness and the Hon'ble Apex Court has already given the guidelines when and how to consider the bail application, prayed to reject the application.

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

11. Regarding involvement of this applicant in the alleged offences, there is a direct evidence. The applicant is behind bar since 2022, till the date charge is not framed. Near about 28 witnesses are there, it will take its own time for completion of trial. The rights of the applicant enshrined under Article 21 of the Constitution of India is affected.

12. Considering the observations made by the Hon'ble Apex Court and as two co-accused having similar role are already released on bail, the ground of parity is available. On perusal of the order sheet, it appears that the accused were not produced before the Court. It is the duty of the prosecution to produce the accused before the Court. Because of the prosecution if there is delay, then the Court has to consider it. In support of his contention, the learned Counsel for the applicant has relied on the judgment of the Hon'ble Apex Court in the case of *Satendra Babu Vs. State of U. P. [2023 LiveLaw (SC) 766]*. As the accused were not produced before the Court and there is delay, also on the

ground of parity, the application deserves to be allowed. 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.789/2022 registered with Police Station, Frezarpura, District Amravati for the offences punishable under Sections 302, 307, 294, 143, 147, 148, 149, 354, 109, 504 and 506 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.)