



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Application (BA) No. 1096 of 2024

/ Raju Saidal ..vs.. The State of Maharashtra through P.S.O., P.S. Ballarpur, Dist. Chandrapur]

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

Court's or Judge's orders

Mr. Shashank Manohar, Advocate with Mr. A. S. Manohar, Advocate for the
applicant

Ms. K. P. Marpakwar, APP for the State/non-applicant

CORAM : ANIL L. PANSARE J.

DATED : 06-01-2025

Heard.

2. The applicant has filed present application under Section 439 of the Code of Criminal Procedure, 1973 read with Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023. The applicant is facing trial for the offences punishable under Sections 143, 147, 148, 149, 302 and 120-B of the Indian Penal Code and Sections 4/25, 7 and 27(3) of the Arms Act. The crime was registered on 8-8-2020 being Crime No. 530/2020. The applicant has been arrested on 8-8-2020.

3. Learned counsel for the applicant is pressing for bail only on the count of infringement of applicant's right to have speedy trial. He has relied upon the following judgments.

(1) *Siddhant @ Sidharth Balu Taktode Vs. The State of Maharashtra and another arising out of SLP (Crl.) No. 12939 of 2024*. The Hon'ble Supreme Court has found that on merit, the High Court was right in rejecting the application. The appellant therein was facing charges under stringent Act of Maharashtra Control of Organised

Crime Act, 1999. However, the Supreme Court noted that during the period of five years of incarceration, the appellant was not produced before the Court either physically or through video conferencing on most dates. The charge was not framed. In the light of above, the Supreme Court held that if an accused is incarcerated for a period of five years without framing charge, leave aside the right of speedy trial being affected, it would amount to imposing sentence without trial. The Court further held that such a prolonged delay is something that would entitle the appellant for benefit of bail. Accordingly, the appellant was released on bail.

(2) In the case of ***Javed Gulam Nabi Shaikh Vs. State of Maharashtra and anr. [(2024) 9 SCC 813]*** wherein the appellant was facing charges under the provisions of Unlawful Activities (Prevention) Act, 1967, the Court held that howsoever the serious crime may be, the accused has right of speedy trial as enshrined in the Constitution of India. The Court further highlighted the object of the bail and opined that the object is to secure the attendance of the accused at the trial. On the speedy trial, the Supreme Court has taken aid of its earlier judgment in the case of ***Hussainara Khatoon (1) Vs. State of Bihar [(1980) 1 SCC 81]*** which reads thus :-

“10. Long back, in Hussainara Khatoon (1) Vs. State of Bihar, this court had declared that the right to speedy trial of offenders facing criminal charges is “implicit in the broad sweep and content of Article 21 as interpreted by this Court”. Remarking that a valid procedure under Article 21 is one which contains a procedure that is “reasonable, fair and just” it was held that : (SCC p. 89, para 5)

“5. ...Now obviously procedure prescribed by law for depriving a person of liberty cannot be “reasonable, fair or just” unless that procedure ensures a speedy trial for determination of the guilt of such person. No procedure which does not ensure a reasonably quick trial can be regarded as “reasonable, fair or just” and it would fall foul of Article 21. There can, therefore, be no doubt that speedy trial, and by speedy trial we mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The question which would, however, arise is as to what would be the consequence if a person accused of an offence is denied speedy trial and is sought to be deprived of his liberty by imprisonment as a result of a long delayed trial in violation of his fundamental right under Article 21.”

Thus, the Court held that speedy trial, which would mean reasonably expeditious trial, is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The Court then delve upon the consequence of denial of speedy trial and having found in the said case that the right of appellant therein to have speedy trial having been infringed, the right envisaged in Article 21 was held to be violated.

4. Similar is the case at hand. The applicant herein is behind bars for more than four years and has been not produced on most of the dates. It is nobody's case that charge has been not framed because of fault of the applicant. As such, learned Additional Public Prosecutor submitted that on merit, there is evidence to show that the pillion rider of the bike, which was driven

by the applicant, has fired bullets at the deceased, the fact remains that the applicant is waiting for trial for more than four years. The applicant is not the one who has fired bullet. In the circumstances and in the light of judgments cited by the learned counsel for the applicant, I am of the considered view that the applicant should get benefit of denial of speedy trial. Hence, following order.

ORDER

- (i) Criminal application is allowed.
- (ii) Applicant – Pranay S/o Raju Saidal be released on bail in Crime No. 530/2020 registered with Police Station, Ballarpur, District Chandrapur for the offences punishable under Sections 143, 147, 148, 149, 302 and 120-B of the Indian Penal Code and Sections 4/25, 7 and 27(3) of the Arms Act on he executing PR Bond in the sum of Rs. 50,000/- with one or two sureties in the like amount.
- (iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating Officer and the Court concerned, and shall not change the residence till the final disposal of the case.
- (iv) The applicant shall regularly attend the court and co-operate to complete the trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial court.
- (v) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness

acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or any Police Officer.

(vi) The Applicant shall maintain law and order.

(vii) The applicant shall surrender his passport, if any, before the Court within a period of four weeks from today. If he does not possess passport, he shall file affidavit to that effect.

(viii) In case of breach of any condition, the learned trial court shall be at liberty to cancel the bail after giving opportunity of hearing to both the sides.

5. Criminal application stands disposed of accordingly.

(Anil L. Pansare, J.)