



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

CRIMINAL APPLICATION (BA) NO.1157 OF 2024
(Mr. Sheikh Alim Sheikh Kalim Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. I. Haque, Advocate for the applicant.
Mr. D.V. Chauhan, Public Prosecutor (Sr. Counsel) a/b
Mr. V.A. Thakare, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 22, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 07.09.2023 in connection with Crime No.419/2023 registered with Police Station, Wadner District Wardha for the offences punishable under Sections 395, 397, 120-B, 171, 201, 342 of the Indian Penal Code and Section 3/25 of the Arms Act, 1959.

2. The crime is registered on the basis of report lodged by Atthesing Bhagwanji Solanke who is working as a driver alleging that on 06.09.2023 at about 3.00 p.m., he received the phone call of Nitin Joshi and said Nitin Joshi asked him to call one Kamlesh Shah, therefore, he called Kamlesh Shah and said Kamlesh Shah disclosed to him that Nitin Joshi would hand over some amount to him and that amount is to be carried out at Hyderabad. Thereafter, the amount of Rs.4,52,00,000/- was handed

over to him by packing it appropriately, therefore, he proceeded at about 4.00 p.m. from Nagpur to Hyderabad. When he was proceeding from Nagpur to Hyderabad and crossed the Pohana village at that time, one white Honda City car restrained his car and four persons came out from the said car and assaulted him and also removed the key of his car and looted the said amount. On the basis of the said allegations, the police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that as far as the crime registered under Sections 395 and 397 is concerned, there were only four persons, the applicability of these sections itself is doubtful. He further submitted that as far as the applicant is concerned there is no iota of material to show that there was any communication between the present applicant and the other co-accused. There is no material to show that what was the source of the complainant to have such a huge amount along with him. Thus, considering the investigation papers the *prima facie* case is not made out against the present applicant. Now, the applicant is behind bar from 07.09.2023 i.e. from last two years. The trial is not commenced and considering that since last two years even charges are not framed then delay in trial, and therefore, the applicant be released on bail.

4. Learned Public Prosecutor strongly opposed the said application and invited my attention towards the memorandum statement of the accused which shows that the car which is used in the commission of the crime is discovered at the instance of the present applicant and the amount of Rs.1,10,00,000/- is also recovered at the instance of the present applicant. He is also identified during the identification parade. Thus, he submitted that there is sufficient material to connect the present applicant with the alleged offence. He also invited my attention towards the statements of the witnesses namely Atthesing Bhagwanji Solanke and Arvindkumar Shivrambhai Patel discloses the involvement of the present applicant in the alleged offence. He submitted that considering the gravity of the offence, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. On perusal of the investigation papers it reveals that the recovery of the amount of Rs.1,10,00,000/- is at the instance of the present applicant. The car which is used in the commission of the crime is also recovered at the instance of the present applicant. He is also identified during the identification parade. At this stage, the evaluation of the evidence is not required; however, considering the *prima facie* material against the present applicant, the application deserves to be rejected. The another ground raised by the applicant is that there is

delay in trial and he placed reliance on the various orders passed by the Hon'ble Apex Court in the case of **Sheikh Parvez Vs. State of Maharashtra and anr. in Special Leave to Appeal (Crl.) No.4762/2024, SLP (Criminal) No.12487/2024** and submitted that the right of the present applicant as to the speedy trial enshrined under Article 21 of the Constitution is affected.

6. On hearing both the sides and on perusal of the investigation papers, there is no doubt about the *prima facie* material which is available against the accused which shows the involvement of the present applicant. As far as the delay in trial is concerned, the investigation is already completed and charge-sheet is filed and the case is already fixed for framing of the charge.

7. The Hon'ble Apex Court in '***X Vs. State of Rajasthan & Anr. [Special Leave Petition (Criminal) No. 13378 of 2024] dated 27.11.2024***' specifically observed 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. It is further observed that 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.

8. As far as the present case is concerned, the material which is collected during the investigation sufficiently shows the involvement of the present applicant. The matter is already fixed for framing the charge. At this stage, no case is made out for grant of bail and the application deserves to be rejected.

9. Hence, the application is rejected.

10. Liberty is granted to the applicant to move before the Court after six months, if trial is not commenced within six months.

(URMILA JOSHI-PHALKE, J.)

**Divya*