



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

CRIMINAL APPLICATION (BA) NO. 1214/2024

Kunal Rajesh Naik 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. R. M. Daga, Advocate for the Applicant.
Ms Trupti Udeshi, A.P.P. for the Non-applicant/State.

CORAM : MRS.VRUSHALI V. JOSHI,J.

DATED : 14/11/2025.

1. The applicant is seeking bail in connection with Crime No.652/2023 registered for the offences punishable under Sections 364, 302, 201 r/w Section 34 of Indian Penal Code.

2. It is the case of the prosecution that the applicant along with other co-accused had committed murder of one Ashish. They took him in car and at Balaghat the murder is committed. As they took him from Kanhan, the offence is registered at Kanhan.

3. The learned Counsel for the applicant has stated that there is nothing on record to show the involvement of this applicant in the crime in question. The offence is based on the circumstantial evidence. The last seen theory is also not there. Two co-accused are released on bail. The allegations against those persons are about assault with the sticks and rod. The allegation against this applicant is about using the knife. The learned counsel for the applicant has brought to my notice the postmortem report, wherein there is no any cut injury. The knife is recovered from this applicant, but the recovery is in

contradiction with the observations made in the postmortem report. The applicant has stated that though the mother of the deceased has given the statement that the deceased told her that he is going with the applicant, that statement is recorded even before they came to know about the murder. The statement is recorded after one month. First Information Report is also registered after three days of the incident. There are no blood stains. There is nothing on record to show the involvement of this applicant. Ground of parity is available to this applicant. Hence, prayed to release the applicant on bail.

4. Learned A.P.P. has opposed the application stating that opinion of the doctor about the knife is that the stab injuries caused on the stomach and it can be caused because of the said knife. The statement of the mother is there. The trial is already initiated. Four witnesses are also examined. Therefore, as per the judgment in the case of *X Vs. State of Rajasthan and Anr.* [**Special Leave Petition (Criminal) No.13378/2024**], the Court should loath after initiation of trial to grant the bail. Hence, prayed to reject the application.

5. Heard the learned Counsel for the applicant and the learned A.P.P. for State.

6. The case of the applicant rests on the circumstantial evidence. The learned Counsel for the applicant has stated that though the knife is recovered from this applicant, the observations in the postmortem report contradicts the injuries. During the argument when it is brought to the notice that the trial is initiated and the evidence of five witnesses is recorded, the learned A.P.P.

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 observations were made that the Court while granting bail should loath in granting bail if the trial is commenced.

7. In that respect, the learned Counsel for the applicant has relied on the judgment of the Hon'ble Apex Court in the case of *Paras Ram Vishnoi Vs. The Director, Central Bureau of Investigation* [**2021 SCC Online SC 3606**], wherein even after recording of statement under Section 313 of the Criminal Procedure Code, the Court has granted bail on the ground of delay in trial. The applicant has also relied on the judgment of the Hon'ble Apex Court in the case of *Rup Bahadur Magar @ Sanki @ Rabin Vs. The State of West Bengal* [**Petition(s) for Special Leave to Appeal (Cri.) No(s). 11589/2024**], wherein incarceration was about two years and nine months. In this case also though the trial was initiated, considering the number of the witnesses, the Court has granted bail and direction is given not to time bound the matter. Reliance is also placed on the judgment of the Hon'ble Apex Court in the case of *Bhoora Vs. State of Uttar Pradesh* [(**2018**) **18 SCC 162**], wherein the period of custody is considered by the Hon'ble Apex Court. In the case of *Subhelal @ Sushil Sahu Vs. The State of Chhattisgarh* [**Criminal Appeal No.818/2025**], it is observed by the Hon'ble Apex Court that though 50 witnesses were examined before the oral evidence is closed and considering the period to examine the other witnesses, the bail was granted. Reliance is also placed on the decision of the Hon'ble Apex Court in the case of *Amol*

Vitthal Vahile Vs. The State of Maharashtra [**Criminal Appeal No.545/2024**], wherein it is observed that the practice of the judges of not deciding the matter on merits but finding an excuse to shunt the case on different grounds. Reliance is also placed on the judgment of this Court in the case of *Vivekanand Sudhir Pise @ Vicky and Anr. Vs. State of Maharashtra* [**Criminal Bail Application No.1247/2025**], in which by relying on the judgment of the Hon'ble High Court in the case of *X Vs. State of Rajasthan and Anr.* bail was granted though the trial was initiated. In the case of *Umesh Shiva Shinde Vs. State of Maharashtra* [**Criminal Application (BA) No.999/2025**], wherein this Court has even after considering that the case rests on the circumstantial evidence and though the C.C.T.V. footage is there, this Court granted bail to the applicant.

8. The learned A.P.P. has stated that in two cases in which though the statement under Section 313 of the Code of Criminal Procedure was recorded, the accused was in jail since last eight years. In the case of Vivekanand Sudhir Pise (supra) of the High Court, the accused was in jail since thirteen years. Therefore, though the judgment in *X Vs. State of Rajasthan and Anr. (supra)* is considered, in the peculiar facts of such case, the bail was granted. As the offence is of serious nature and the trial is already initiated, the learned A.P.P. has requested to reject the application.

9. In the case of *Rup Bahadur Magar (supra)*, the Hon'ble Apex Court has observed that while rejecting the bail applications, the High Courts shall not pass the orders directing disposal of trials within a time scheduled and not

to burden the Trial Court if the trial is initiated. In this case, the case rests on the circumstantial evidence. There is no direct evidence. Though the trial is initiated, it will take time. Since last two years the applicant is in jail.

10. Considering the authorities cited by the applicant though the trial is initiated and as the case is rests on circumstantial evidence 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.652/2023 registered with Police Station, Kanhan, District Nagpur for the offences punishable under Sections 364, 302, 201 read with 34 of the Indian Penal Code, on furnishing P.R. Bond in the sum of Rupees 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.)