



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

CRIMINAL APPEAL NO. 735 OF 2024

APPELLANT

Komal s/o Gyaniram Kiranpure,
Aged about 30 years, Occupation:
Agriculturalist, R/o Lohara, Tah. And
District Gondia. (Presently at District
Prison, Bhandara)

-VERSUS-

RESPONDENTS

1. The State of Maharashtra, through
Police Station Officer, Police Station
Dawniwada, Tahsil- Tiroda,
District Gondia.
2. Sau. Sevangan Rajesh Kirsan,
Aged about 31 years, Occu: Labourer,
R/o Lonara, Taluka and District Gondia.

Mr. R.M.Daga, counsel for appellant.
Mr. Anant Ghogre, APP for respondent/State.
Mr.Anirudh Ananthakrishnan, counsel (appointed) for respondent
No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : 08/04/2025

ORAL JUDGMENT :

1. Heard.
2. **Admit.** Heard finally with the consent of learned counsels appearing for the parties.
3. By preferring this appeal, the appellant has challenged the order passed by the District Judge-1 and Additional Sessions Judge, Gondia, by which the application of the present appellant for grant of bail is rejected. Initially, the appellant had preferred the appeal bearing Criminal Appeal No. 292 of 2024, the same was withdrawn.
4. The present appeal is preferred by the appellant on the ground of delay in trial. The appellant is arraigned as an accused in connection with Crime No. 134/2021 registered with Police Station Dawaniwada, Tahsil Tiroda, District Gondia for the offences punishable under Sections 143, 144, 201, 302, 364, 324, 504, and 506, of the Indian Penal Code, 1860; and Section 3(2)(5), 3(1)(r)(s), 3(2)(5)(a) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. As per the allegations, the present appellant and the other co-accused suspected that the deceased had committed the theft of the motorcycle, and therefore, he was assaulted, and death of the deceased is caused

by the present appellant and the other co-accused. On the basis of said report, police have registered the crime against the present appellant as well as the other co-accused.

5. After registration of the crime, the appellant was arrested on 04/07/2021, and since then he is behind bar. After completion of the investigation, the charge-sheet is also submitted on 17/09/2021.

6. Learned counsel for the appellant, who submitted that though charge-sheet is filed on 17/09/2021, the charges are not framed, and the trial is not commenced. The appellant can not be kept behind bar for an indefinite period. He also placed on record, the Rozanama as well as the report of the Special Judge is also called, which also shows that the trial is also not commenced. Learned counsel for the appellant further submitted that as the trial is not commenced, the right of the present appellant as to the speedy trial enshrined under Article 21 of the Constitution is violated and therefore, he be released on bail.

7. Learned APP strongly opposed for the same and submitted that, the appellant and the other co-accused in furtherance of common object formed the unlawful assembly by

suspecting that the deceased has committed the theft of motorcycle, and assaulted him mercilessly, and caused his death. Considering the prima-facie material against the present appellant and in the nature of the direct evidence of eye-witnesses statement, the application is rightly rejected by the trial Court, and no interference is called for.

8. Learned counsel for the complainant also endorsed the same contentions and submitted that considering the prima-facie material against the present appellant, the appeal is rightly rejected and therefore, no interference is called for.

9. After hearing both sides and on perusal of the investigation papers from which it reveals that, there is a direct evidence collected during the investigation, which shows that the statements of the eyewitnesses discloses the involvement of the present appellant in the alleged offence. Except one eyewitness other eyewitnesses assigned the role to the present appellant to the extent of assault by fist and kick blows. Whereas one of the eyewitness assigned the role that she has assaulted by means of stick. Thus, as far as the involvement is concerned, there is sufficient material to connect the present appellant with the

alleged offence. The present appeal is preferred mainly on the ground that there is inordinate delay in trial.

10. Learned counsel for the appellant placed reliance on the decision of the Hon'ble Apex Court in case of ***Balwinder Singh Vs State of Punjab and another in Petition (s) for Special Leave to Appeal (Crl.) No(s). 8523/2024 dated 09/09/2024***, wherein incarceration of the accused was for three years and he is released on bail.

11. Learned counsel further submitted that, time and again, the Hon'ble Apex Court by referring its earlier decision held that the right of the speedy trial enshrined under Article 21 of the Constitution is to be protected, and in view of that, the appellant is to be released on bail.

12. Furthermore, in the case ***Javed Gulam Nabi Shaikh vs The State of Maharashtra and another [(2024)9SCC 813]***, wherein the aspect of the right of the speedy trial enshrined under Article 21 of the Constitution was considered, and it is observed that if the State or any prosecuting agency including the Court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the

Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.

13. In another recent order, the Hon'ble Apex Court has considered this aspect in the case of *X Vs State of Rajasthan and another reported in Special Leave Petition (Criminal) No. 13378 of 2024 dated 27/11/2024*, wherein it is held 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.

14. In view of the observations of the Hon'ble Apex Court, and considering the fact that there is delay in trial and in the right of the present appellant for a speedy trial, in view of the Article 21 of the Constitution infringed and considering the fact that the applicant cannot be kept behind bar for an indefinite period. In view of that, appeal deserves to be allowed. Accordingly, I proceed to pass the following order;

a] The appeal is **allowed**.

- b] The order passed by the District Judge-1 and Additional Sessions Judge, Gondia below Exhibit 139 by order dated 23/06/2023 is hereby quashed and set aside.
- c] The appellant – Komal s/o Gyaniram Kiranpure, shall be released on bail in connection with Crime No. 134/2021 registered with Police Station Dawaniwada, Tahsil Tiroda, District Gondia for the offence punishable under Sections 143, 144, 201, 302, 364, 324, 504, and 506, of the Indian Penal Code, 1860; and Section 3(2)(5), 3(1)(r)(s), 3(2)(5)(a) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, on executing PR. Bond of Rs. 50,000/- with one solvent surety in the like amount.
- d] The appellant shall not enter into the vicinity of village Lohara, Tahsil and District Gondia till culmination of the trial.
- e] The appellant shall not induce, threat or promise any witnesses who are acquainted with the facts of

the case either personally or by way of electronic media.

- f] The appellant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.
- g] The contravention of any of the conditions would lead his cancellation of bail.
- h] The fees of the appointed counsel be quantified as per Rule.

15. The criminal appeal is **disposed of**.

[URMILA JOSHI-PHALKE, J.]