



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

CRIMINAL APPLICATION (BA) NO. 04 OF 2025

Pankaj S/O Krupashnakar Dubey Vs The 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. A.S. Mardikar, Senior Counsel with Mr. Digvijay Singh, counsel for applicant.

Mr. N.B. Jawade, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 01/04/2025.

1. The applicant came to be arrested on 28/12/2021 in connection with Crime No. 578/2021 registered with non-applicant/police station for the offences punishable under Section 420, 406, 409, 384, 506 and 120-B of the Indian Penal Code, 1860 and Sections 3(1) (ii), 3(2), 3(4) and 4 of the Maharashtra Control of Organized Crime Act (hereafter referred to as 'the MCOC Act').

2. The crime is registered against the present applicant on an allegation that the daughter of the complainant, namely Maithili, was aspiring to secure admission for an M.B.B.S. Course however, she did not have sufficient marks to secure the said admission in the CAP Round. On 06/06/2019, the complainant received a call from one person who introduced himself as Sachin Kashyap and told her that he was from "Choose Your Career Academy, Mumbai" and also informed her that one seat was available in Government Medical College at

Nagpur and obtained an amount of Rs. 40 Lakhs, but the admission was not given to the daughter of the complainant, and he was duped. On the basis of the said report, police have registered the crime against the present applicant.

3. During the course of investigation, the name of the present applicant is revealed on the basis of the statement of the co-accused. Considering the nature of the offences and various crimes registered against the present applicant, the provisions of the MCOC are invoked. It is alleged that there is an existing organized crime syndicate led by the co-accused and that such syndicate has committed a number of similar offences for getting pecuniary benefits. On the basis of the said report, police have registered the crime against the present applicant, and he is arrested.

4. Heard learned counsel for the applicant, who submitted that the application is filed mainly on the ground that there is a delay in trial. He submitted that the applicant was arrested on 28/12/2021 and the charge was framed on 29/04/2024, PW-1 was examined on 11/10/2024, and thereafter, no witness is examined. The applicant has undergone approximately five years of imprisonment without trial.

5. In support of his contention, he placed reliance on the decision of the Hon'ble Apex Court in the

case of *Sheikh Javed Iqbal @ Ashfaq Ansari Vs. The State Of Uttar Pradesh [(2024) 8 SCC 293]*.

6. The said application is strongly opposed by the learned APP on the ground that there is progress in the trial, as witnesses are already examined, in view of that, the application deserves to be rejected.

The further ground raised by the learned APP is that, during investigation, the involvement of the present applicant is revealed, and if he is released on bail, he is tamper with the prosecution evidence. In view of that, the application deserves to be rejected.

7. After hearing both sides and on perusal of the investigation papers, it reveals that the applicant is arraigned as an accused, as the statement of the co-accused recorded under Section 18 of the MCOC Act reveals the involvement of the present applicant. Admittedly, the present application is filed mainly on the ground that there is an inordinate delay therefore, the report of the learned Special Judge under the MCOC Act was called as to the status of the trial. The report shows that the charge was framed on 29/04/2024. Thereafter, the first witness was entered into the witness box on 11/12/2024 thereafter, time and again, the matter was adjourned for one or the other reason, and therefore, the right of the present applicant as the speedy trial enshrined under Article 21 of the Constitution is affected.

8. The observations of the Hon'ble Apex court in the case of *Sheikh Javed Iqbal @ Ashfaq Ansari* referred (supra) is relevant, wherein the Hon'ble Apex court by referring its earlier judgment in the case of *Javed Gulam Nabi Shaikh vs The State of Maharashtra and another (in Criminal Appeal no. 2787 of 2024 (Arising out of SLP (Cri) No. 3809 of 204)*, wherein 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.

9. In view of the observation of the Hon'ble Apex Court, the applicant has made out a case for grant of bail, in view of that, I proceed to pass the following order.

- a] The criminal application is **allowed**.
- b] The applicant – *Pankaj s/o Krupashankar Dubey* shall be released on bail, in connection with Crime No. 578/2021 registered with non-applicant/Police Station for the offences punishable under Section 420, 406, 409, 384, 506 and 120B of the Indian Penal Code, 1860 and Sections 3(1) (ii), 3(2), 3(4) and 4 of the Maharashtra

Control of Organized Crime Act, on furnishing P.R. Bond of Rs. 1,00,000/- with one solvent surety in the like amount.

- c] The applicant shall attend the concerned police station twice in a month on 1st and 15th of every month till culmination of the trial.
- d] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either physically or through electronic media.
- e] The applicant shall attend the proceedings before the Special Court and shall cooperate with the Court to dispose of the trial at the earliest.
- f] The applicant shall attend the proceedings without seeking any exemption unless there are exceptional circumstances.
- g] The applicant shall deposit his passport before the Court if he is having.

10. The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]