



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

CRIMINAL APPLICATION (BA) NO.271 OF 2025

Harshal s/o Santosh Chachane

Vs.

State of Maharashtra, through Police Station Officer, Police Station,
Yawatmal City, Taluka and District Yawatmal

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

Court's or Judge's orders

Mr. S. V. Sirpurkar, Counsel for the applicant.
Ms. Swati Kolhe, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/04/2025

1. The applicant is came to be arrested on 14.11.2022 in connection with Crime No.641/2022 registered with Police Station Yawatmal City, District Yawatmal for the offence punishable under Sections 143, 144, 147, 148, 302, 307, 323, 504, 506 read with Section 149 of the Indian Penal Code and under Section 37(1)(c) and 135 of the Maharashtra Police Act.

2. The crime is registered on the basis of report lodged by Harish Mule on an allegation that on 04.10.2022 at about 22.15 hours in the night, the complainant along with his friend Sopan Raut, Suraj Gawande, Badal Kale, Anand Kutemate, Pravin Keram and others were dancing in procession nearby Vishnu Jewellers. At that time the quarrel took place

between them and they fled away from the way beside Bhalerao Jewellers. The complainant and other persons followed them to see what happened, at that time police staff also came there. Out of fear complainant and his associates fled towards Ganesh Temple and came near Mahavir Bhawan. At that time Praful Gajbe, present applicant and other accused came there and caught hold Pravin and abused him and assaulted him with kicks and fist blows, and thereafter complainant came on the procession site and called the police and thereafter police reached there and taken the victim on motorcycle to the government hospital, but on the next day, he reported to be dead. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant, who submitted that the applicant is behind bar since the date of his arrest. The entire roznama is placed on record, yet charges are not framed. The right of the present applicant as to the speedy trial enshrined under Article 21 of the Constitution of India is affected. He submitted that the applicant cannot be kept behind bar for indefinite period. In view of that, he be released on bail. As far as the merit of the matter is concerned, he submitted that the assault is by fist and kick blows and no specific role is attributed to the present applicant. In view of that, he be released on bail.

4. Learned APP strongly opposed the said application and submitted that the injured has sustained as many as 42 injuries. The deadly weapons like knives are seized during the investigation. The death of the deceased is due to the grievous injuries. There are eye witnesses to the said incident. The role of the present applicant is also specifically stated. Considering the nature of the evidence connected during the investigation, the application deserves to be rejected.

5. After hearing both sides and on perusal of the investigation papers it reveals that during the procession quarrel was started and on that count the deceased was assaulted by the present applicant and the other co-accused as well as the deceased was also assaulted by means of knives, due to which he has sustained as many as 42 injuries. As far as the involvement of the present applicant is concerned, which reveals from the investigation papers. Learned Counsel for the applicant has raised the ground of delay in trial. He placed on record the decisions of the Hon'ble Apex Court in the case of **Union of India Vs. K. A. Njeeb** reported in **(2021) 3 SCC 713**, **V. Senthil Balaji vs The Deputy Director, Directorate of Enforcement** reported in **2024 SCC OnLine SC 2626**, **Javed Gulam Nabi Sheikh Vs. State of Maharashtra and another** reported in **(2024) 9 SCC 813** and **Sanket s/o Vithal Hagwane Vs. State of Maharashtra in Criminal**

Application (BA) No.877/2024 dated 19/10/2024.

6. Per contra, learned APP strongly opposed and placed her reliance on the decision of **Kalyan Chandra Sarkar Vs. Rajesh Ranjan Alias Pappu Yadav and another** reported in **(2004) 7 SCC 528** wherein the Hon'ble Apex Court has held that among the other circumstances of the case, the factors which are required to be considered by the Court before granting bail are the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant, prima facie satisfaction of the Court in support of the charge.

7. After hearing both sides and on perusal of the investigation papers. As far as the role of the present applicant is concerned, which is specifically reveals from the investigation papers, there is no dispute that involvement of the present applicant is in a grievous offence. The specific role is also attributed to the present applicant. The gravity of the offence reveals from the investigation papers. The law in regard to the grant or refusal bail, bail is very well settled. The Court granting bail should exercise its discretion in a judicious manner and not as a matter of course. While considering the bail application the

court has to consider the relevant factor i.e. the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering with the witness or apprehension of threat to the complainant and prima facie satisfaction of the Court in support of the charge.

8. Here in the present case, the applicant has raised the ground of delay in trial. The Hon'ble Apex Court referring the catena of decisions in the case of **Javed Gulam Nabi Sheikh Vs. State of Maharashtra and another** referred supra 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." Thus, the catena of decisions the Hon'ble Apex Court has considered that the speedy trial is the right of the accused which is enshrined under Article 21 of the Constitution. The applicant is arrested on 14.11.2022 since then he is behind bar. The roznama which is placed on record shows that till today no charge is framed. In view of the observation of the Hon'ble Apex Court 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. Admittedly, the crime committed is serious, but in view of the observation and in view of the right of the present applicant under Article 21 of the Constitution is affected, the applicant cannot be kept behind the bar for indefinite period. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant **Harshal s/o Santosh Chachane** shall be released on bail in connection with Crime No.641/2022 registered with Police Station Yawatmal City, District Yawatmal for the offence punishable under Sections 143, 144, 147, 148, 302, 307, 323, 504, 506 read with Section 149 of the Indian Penal Code and under Section 37(1)(c) and 135 of the Maharashtra Police Act, on executing PR Bond in the sum of Rs.1,00,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of Power House Talav Fail, Yawatmal, District Yawatmal, till the culmination of trial.
- (iv) The applicant shall attend the proceeding before the Sessions Court without

seeking any exemption unless there are exceptional circumstances.

(v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

(vi) The applicant shall not indulge himself in similar type of the activities.

(vii) On contravention any of the condition would lead to the cancellation of bail.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)