



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

CRIMINAL APPLICATION (BA) NO.325 OF 2025

(Ganesh Subhash Deshmane 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. R.M. Daga, Advocate for the applicants.

Mr. D.V. Chauhan, Public Prosecutor (Sr. Counsel) a/b Mr. A.M. Ghogare, APP
for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JULY 15, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 05.01.2023 in connection with Crime No.2/2023 registered with Police Station Mehkar, District Buldhana for the offence punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code, 1860.

2. The earlier bail application of the present applicant was withdrawn as this Court has shown disinclination to grant bail.

3. As per the allegations, the dead body was found lying in a dry drain situated near grave yard. Thereafter, the investigating agency has visited the alleged spot of incident, panchnama was drawn and the crime was registered against the unknown person. There were injuries on the neck of the deceased. One mobile phone was found alongwith the deceased and on that phone call the identification of the deceased was revealed. It was a call of the wife of the

deceased to inform the police officials that deceased is her husband and was working as an In-charge Bank Manager in the State Bank of India, Branch at Hirdav, Tah. Lonar, District Buldhana and stayed at K.V. Pride Lodge situated at Mehkar, since he is the permanent resident of Vashi, Mumbai. During investigation the spot panchanama was conducted in presence of panchas and weapon knife from the crime scene was also recovered. During investigation, the involvement of the present applicant is revealed, and therefore, the applicant was arrested. It revealed during the investigation that the applicant was working as service boy at K.V. Lodge where the deceased has stayed but the since the day of incident the applicant was not on work. The wife of the present applicant who is accused No.2 in the present crime admitted the commission of the crime by the present applicant and there was a discovery of blood stained cloths at the instance of the present applicant. On the basis of the said investigation, the charge-sheet is filed against the present applicant.

4. Learned Counsel for the applicant submitted that the present application is filed raising the ground of delay in trial. Though charge is framed long back on 08.12.2023 no single witness is examined and the right of the accused of a speedy trial enshrined under Article 21 of the Constitution of India is affected. He submitted that despite the order passed by this Court of expediting the trial, the trial Court has not expedited the trial and the accused is languishing in jail. He has pointed out the order dated 07.05.2025 and submitted that despite this order passed by this Court, there is defalcation on the part of the Presiding Officer as well as on

the part of the Prosecution as no witness is examined, and therefore, the applicant be released on bail as his valuable fundamental right is affected.

5. Learned Public Prosecutor strongly opposed the said application and submitted that during investigation, the investigating agency has collected the material evidence which shows the involvement of the present applicant. Admittedly, the deceased was working as In-charge Branch Manager and serving in a Pride Lodge. The present applicant was also serving there as office boy and he was absconding since the date of the incident. During investigation, the statement of wife of the present applicant was recorded as well as the blood stained clothes at the instance of the present applicant was also recovered. There are material witnesses whose statements are recorded which shows the involvement of the present applicant in the alleged offence. The crime is committed in a very brutal manner. Considering the gravity of the offence, the application deserves to be rejected.

6. After hearing both the sides and on perusal of the investigation papers it reveals that as there is sufficient material against the present applicant to show his involvement. In initial bail application the disinclination was shown by this Court, and therefore, the applicant has withdrawn the application. Now, this application is filed by the applicant on the ground of delay in trial. Learned Counsel for the applicant has pointed out that the right of the accused as of a speedy trial enshrined under Article 21 of the Constitution of India is affected. He placed reliance on the

decision of this Court passed in **Criminal Bail Application No.21/2025** (*Gurudev Bhimrao Gedam Vs. State of Maharashtra*) decided on 27.06.2025, wherein by referring the various decisions of the Hon'ble Apex Court, the applicant was released on bail. The report from the learned Additional Sessions Judge, Mehkar, District Buldhana was called and it was received dated 10.04.2025. It shows that on 08.12.2023, the charge was framed and the case was posted for receipt of chemical analysis reports and muddemal property. On 06.09.2024 partially chemical analysis reports came to be filed and thereafter, again on pursuance by issuing various letters, on 11.02.2025 remaining chemical analysis reports are filed in the matter and muddemal property was also deposited on the same day. The case was posted on 25.02.2025 for list of witnesses and thereafter, for recording the statement of the witnesses. Considering, this aspect that the muddemal property was deposited as well as chemical analysis report is also received by the Sessions Judge this Court while observing that, now charge has been framed, matter is listed for witness evidence with witness list filed and summons is also issued.

7. The matter is scheduled for trial on 20.05.2025 and the trial Court is directed to proceed with the trial on 20.05.2025 but no progress appears to be there, after passing of this order also. Thus, even the Presiding Officer has not shown any regard to the said order passed by this Court. No steps are taken, which are expected from the concerned Judicial Officer as well as from the Prosecution. Merely, because the accused is not produced before the Court is not a sufficient ground to adjourn the matter. It seems from the

report of the Additional Sessions Judge and District Judge that it is forgotten that the Presiding Officer is not a silence spectator but he has to take appropriate steps to proceed with the trial especially when the accused is languishing in jail since two to three years. Thus, it is apparent that not only the prosecution but the Presiding Officer has also not considered the fundamental rights of the accused to have a speedy trial which is enshrined under Article 21 of the Constitution of India. It is observed by the Hon'ble Apex Court in the case of ***Javed Gulam Nabi Sheikh Vs. State of Maharashtra and another [2024 SCC OnLine SC 1693]*** wherein the Hon'ble Apex observed as under:

“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.”

8. The similar view is taken by the Hon'ble Apex Court in the said order and relied upon by the learned Counsel for the applicant in the case of **Shriram Keshav Bhagat Vs. State of Maharashtra and anr. In Special Leave to Appeal (Crl.) No.11839/2024 dated 05.11.2024** wherein also it is observed by the Hon'ble Apex Court that “the above would indicate that the trial is unlikely to conclude on a near date. However, strong the evidence against the accused

may be, there is presumption of innocence in law until proven guilty by a Court. The detention as an under-trial cannot itself be the punishment for the crime alleged against the petitioner. The right of speedy trial seemed to be undermined through the long incarceration of the accused for nearly 7 years and 5 months and released the accused therein on bail.

9. In the present case also despite the order passed by this Court, no steps are taken either by the Prosecution or by the Presiding Officer and the aspect of the fundamental right of the accused as to the speedy trial seems to be forgotten by both. It is the duty of the State as well as of a Court to ensure and protect the right of the citizens which appears to be affected due to the conduct while conducting the trial before the trial Court, and therefore, the application of the present applicant for grant of bail deserves to be allowed. Accordingly, I pass the following order :-

(i) The application is allowed.

(ii) The applicant - Ganesh Subhash Deshmane shall be released on bail in connection with Crime No.2/2023 registered with Police Station Mehkar, District Buldhana for the offence punishable under Sections 302 and 201 read with Section 34 of the Indian Penal Code, 1860, on executing P.R. Bond in the sum of Rs.50,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter into the vicinity of village Mehkar, Taluka Mehkar, District Buldhana except attending the proceedings before the trial Court.

(iv) The applicant shall furnish his detailed address along with the address proof where he is intending to reside after he is released on bail.

(v) The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances and shall co-operate with the trial Court to dispose of the trial as the trial is already commenced.

(vi) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case either personally or by way of electronic media.

(vii) A single incident of tampering of the witnesses would lead to the cancellation of bail.

10. The contravention of any of the condition imposed by this Court would lead to the cancellation of bail.

11. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)