



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

CRIMINAL APPLICATION (BA) NO. 558 OF 2025

(Sagar S/o Raghunath Nimbole

Vs.

State of Maharashtra, Thr. PSO, Police Station Khamgaon City,
Khamgaon, Dist- Buldhana)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. R.R. Vyas, Advocate for the Applicant.
Ms. H.N. Prabhu, APP for the Non-applicant/State.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 7th JULY, 2025

1. The Applicant came to be arrested on 14.06.2019, in connection with Crime No. 246/2019 registered with Police Station Khamgaon City, District Buldhana for the offence punishable under Section 302 of the Indian Penal Code.

2. Heard learned Counsel for the Applicant, who submitted that, initial bail applications of the present Applicant bearing Nos. 1196/2019 and 1040/2020 are already withdrawn as the Court has shown its disinclination to grant bail. Now, this application is filed. As per the allegations, Shri Sudhir Vishwanath Nimbokar aged about 53 years, resident of Sanhi Palace near Shishu Temple, Khamgaon lodged a report with the Police Station alleging that his daughter Ashwini is taking education of MA from

Open Univestiy i.e. Yashwantrao Chavhan. On 17.05.2019 she left the house for appearing in the examination and did not turned up. He tried to call her on her mobile phone but it was switched off. Thereafter, he received a phone call from the Police and Police informed that his daughter found dead in the open space. He immediately rushed to the spot of incident and saw his daughter who has sustained injuries on her person. On the basis of the said report, Police have registered the crime. During investigation the involvement of the present Applicant revealed. As far as this Application is concerned, which is filed mainly on the ground that there is inordinate delay in trial and the right of the present Applicant as to the speedy trial enshrined under Article 21 of the Constitution of India, is affected.

3. It is submitted by the learned Counsel for the Applicant, that one witness is in the witness box whose cross-examination is yet to be completed and considering the list of the witnesses there is no possibility of conclusion of the trial in the near future, and therefore, the Applicant cannot be incarcerated for a longer period. In view of that, the Application deserves to be allowed and the Applicant be released on bail.

4. Learned APP, strongly opposed the application and submitted that, after PW-1 was entered into the witness box, it was the Counsel of the accused who sought the various dates from 04.06.2024 till 21.10.2024. Thereafter also various applications were filed and the trial was not proceeded. She submitted that, admittedly on some dates the

accused was not produced, and therefore, the trial was not proceeded but it is not only the prosecution because of whom the trial is lingered or held up but the learned Counsel for the accused has also contributed for the same. In support of her contention, she placed reliance on ***X Vs. State of Rajasthan & Anr. In Special Leave Petition (Criminal) No. 13378/2024, decided on 27.11.2024, reported in 2024 INSC 909.***

5. After hearing both the sides and on perusal of the investigation papers, admittedly, the case is rested on circumstantial evidence. As far as the involvement of the present Applicant is concerned, which reveals from the investigation papers, and therefore, while earlier two applications are considered, the disinclination was shown by this Court. Now, the application has been filed mainly on the ground of delay in trial. There is no dispute as to the right of the present Applicant as to the speedy trial enshrined under Article 21 of the Constitution of India.

6. At the same time, the subsequent observation of the Hon'ble Apex Court in the case of ***X Vs. State of Rajasthan*** (supra), are to be looked into, wherein the Hon'ble Apex Court has considered that, ordinarily in serious offences like rape, murder, dacoity, etc., once the trial commences and the prosecution starts examining its witnesses, the Court be it the Trial Court or the High Court should be loath in entertaining the bail application of the accused. It is further observed by the Hon'ble Apex Court 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.

7. In the light of the above observation, from the perusal of the order-sheets of the roznama which reveals that PW-1 entered into the witness box on 01.01.2024 and thereafter continuously from 07.02.2024 till 24.06.2024 the Counsel of the accused was absent. On 06.07.2024, though the Counsel of the accused was called repeatedly, he was not available for a long time. Thereafter, the applications are filed by the learned Counsel for the accused for adjournment, and therefore, the trial was not proceeded. Thus, it appears that it was the Counsel of the accused on whose behalf most of the time was consumed to complete the cross-examination of PW-1, and therefore, the trial was not proceeded. Admittedly, on some dates the accused was not produced but considering the fact that the trial is already commenced and it is not the prosecution because of whom the trial gets unduly delayed but it is the defence Counsel because of whom and on his request the trial was adjourned from time to time. Thus, considering the observations of the Hon'ble Apex Court, the Application being devoid of merits and liable to be rejected. At the same time, considering that the Applicant is arrested on 14.06.2019, the Trial Court i.e. Additional Sessions Judge, Khamgaon shall proceed with the trial expeditiously and shall dispose of the trial at the earliest.

8. The learned Counsel for both the parties shall cooperate with the Trial Court to dispose of the trial.

9. The Application is **rejected** and disposed of accordingly.

10. Liberty is granted to the Applicant to move this Court after 9 months if there is no substantial progress in the trial.

11. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)