



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

CRIMINAL APPLICATION (BA) NO.922/2025

(Nilesh S/o Ashok Dorse Vs. State of Maharashtra)

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

Court's or Judge's orders

Mr. S.D. Chande, Advocate for the applicant.
Mr. Anant Ghogare, A.P.P for non-applicant/State.

CORAM: MRS.VRUSHALI V. JOSHI, J.

DATED: 11.9.2025.

Heard.

2. The applicant is arrested in Crime No.132/2021 for the offence punishable under Sections 302 read with Section 34 of I.P.C., Sections 143, 144, 145, 147, 148 and 149 of the I.P.C., Sections 4/25 of the Arms Act and Section 135 of the Bombay Police Act.
3. The applicant was arrested on 25.5.2021.
4. The allegations made against this applicant are that the quarrel took place as the deceased asked why they are driving the vehicle in speed, and applicant along with co-accused assaulted the deceased with sword. He was taken to hospital and then declared dead.
5. Learned Advocate for the applicant has submitted that there is delay in trial. Since last four years the applicant is in jail and trial is not yet initiated. The status report of the trial is called and on perusal of the same, it appears that the adjournments were granted only on the ground that the accused were not produced. The status report shows that this applicant has not appointed an Advocate and he was given legal aid. As the presence of all the accused were not secured and the adjournments were granted, the trial is not initiated.
6. Heard both sides and perused the record.

7. The learned Advocate for the applicant has relied on the judgment of this Court in Criminal Application (BA) No.718/2024 wherein this Court has relied on the judgments of the Hon'ble Apex Court in para 7, which read as under:-

“7. The Hon'ble Apex Court in the case of Javed Gulam Nabi Shaikh Vs. State of Maharashtra and another in Criminal Appeal No.2787 of 2024 decided on 3rd July, 2024, 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. In Sheikh Javed Iqbal @ Ashfaq Ansari @ Javed Ansari Vs. State of Uttar Pradesh in Criminal Appeal No.2790 of 2024 decided on 18th July, 2024, wherein also the issue regarding the speedy trial was considered by the Hon'ble Apex Court and it is held by the Apex Court that this Court thereafter proceeded to hold that Section 43D(5) of the UAP Act does not oust the ability of the constitutional courts to grant bail on grounds of violation of Part III of the Constitution. Long incarceration with the unlikelihood of the trial being completed in the near future is a good ground to grant bail.”

8. In the present case also the applicant is behind bars since 25.5.2021. From the perusal of status report and Roznama it reveals that merely because the accused was not produced before the Court the adjournments were granted. The charge is not yet framed. The Court has not taken efforts to secure the presence of the accused. So also the prosecution has not taken efforts to secure the presence of the accused. Thus, in view of the observations made by 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, nature of crime is serious. Section 302 of the Indian Penal Code is registered against this applicant. In view of the observations made by the Hon'ble Apex Court and in view of Article 21 of the Constitution, the applicant cannot be kept behind the bars. In view of the above, the application deserves to be allowed.

9. Accordingly, I pass the following order:-

- i) Criminal application is allowed.
- ii) Applicant Nilesh S/o Ashok Dorse be released on bail in Crime No.132/2021 for the offence punishable under Sections 302 read with Section 34 of I.P.C., Sections 143, 144, 145, 147, 148 and 149 of the I.P.C., Sections 4/25 of the Arms Act and Section 135 of the Bombay Police Act, on his furnishing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount.
- iii) The applicant shall not in any way tamper with the prosecution evidence.
- iv) The applicant shall not pressurize or threaten the prosecution witnesses.
- v) The applicant shall co-operate the Investigation officer.

(MRS. VRUSHALI V. JOSHI, J.)

Tambaskar.