



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPLICATION NO. 44 OF 2026

Sonu @ Mohammad Sararaj Jahangir Alam

..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

Shri A.S. Shukla, Advocate for the applicant.

Ms T.H. Udeshi, APP for the State.

Shri Dhruv Sirpurkar, Advocate for non-applicant no.2/victim.
 (appointed.)

CORAM: M.M. NERLIKAR, J.

DATE : 20.02.2026.

Heard.

2. By way of this application, the applicant is seeking bail in connection with Crime No.71 of 2024 registered with MIDC Police Station, Nagpur City for the offence punishable under Sections 363, 366-A, 354-A, 354-B of the Indian Penal Code and Sections 8 and 12 of the Protection of Children From Sexual Offences Act, 2012, mainly on the ground of delay in trial.

3. The FIR was lodged by the mother of the victim alleging that the present applicant attempt to rape on her daughter aged about 9 years and 11 months by taking her in forest under the pretext of doing worship at Dargah.

4. Learned Counsel for the applicant submits that there is inordinate delay in trial. The FIR was registered on 26.01.2024, the applicant was arrested on 26.01.2024 whereas the charge-sheet has been filed on 23.03.2024. Further the charges were framed on 19.07.2024, however thereafter there is no progress in the trial. The

Maximum punishment prescribed under Section 366A of the Indian Penal Code is imprisonment up to 10 years; however, there is no minimum sentence has been provided. The other alleged offences carry punishments ranging between three to seven years and therefore, considering the prolonged incarceration of the applicant, the applicant to be enlarged on bail.

5. On the other hand, the learned APP as well as learned appointed Counsel for non-applicant no.2/victim vehemently oppose the application by inviting my attention to the facts of the present case. As per the prosecution case, a 10-year-old girl was allegedly taken by the applicant into a forest on a false pretext. It is alleged that the applicant attempted to commit rape upon her. However, the victim managed to escape from the clutches of the applicant on the pretext of answering nature's call, thereby narrowly averting a grave and untoward incident. Considering the serious nature and gravity of the offence, particularly involving a minor child, and the manner in which the incident is alleged to have occurred, this is not a fit case for grant of bail. Hence, the applicant ought not to be released on bail.

6. I have considered the rival submission and perused the record. It appears that the applicant tried to commit rape on the victim aged about 10 years. However due to presence of mind of the victim, the untoward incident was averted. As there was delay in trial, this Court has called the status report from the trial Court, in which it is stated as follows :

“The accused was arrested on 26-01-2024 in

connection with offences under Section 354-A, 354-B, 363, 366-A of I.P.C. r/w Section 8 and 12 of POCSO Act. Chargesheet was filed on 26-03-2024 and bail application filed by the accused was decided on 15-06-2024. Charge was framed against accused on 19-07-2024. Muddemal was received on 05-10-2024.. For C.A. report the matter was awaited. Letter was issued to RFSL on 20-01-2025. In the mean time another application for bail filed by the accused came to be rejected on 20-01-2025 vide order below Exh.8. The accused was handed over to I.O. in crime No.280/2025 under Section 8-C, 2-B and 2-A of N.D.P.S. Act while he was detained in Nagpur Central Prison.

As per the record, initially the said case was pending before learned Extra Jt. District Judge and A.S.J., Nagpur and thereafter, the case came to be transferred to this Court on 13-11-2025. I have taken charge of the Court of Additional Sessions Judge-11, Fast Track Special Court/POCSO Court, Nagpur on 28-01-2026.

As the C.A. report has yet to be received, the prosecution has not examined any witness. Even if trial commences in absence of C.A. report, it will take reasonable time considering nature of the offence and number of witnesses. There are total 18 witnesses cited by the prosecution and it will at least take one year for concluding the trial once the C.A. report is received.”

7. The Hon’ble Supreme Court has considered the issue of delay in trial in catena of judgments stating that the accused cannot be put behind the bars for indefinite period, if the trial is not progressed. The Hon’ble Supreme Court in the case of **Javed Gulam Nabi Shaikh VS State of Maharashtra and Another, (2024) 9 SCC 813**; has in para no.17 held as under :

“17. 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. Further in case of **Sheikh Javed Iqbal VS State of Uttar Pradesh, (2024) 8 SCC 293**; it has been held in para no.42, by the Supreme Court as under :

“42.This Court has, time and again, emphasized that right to life and personal liberty enshrined Under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an Accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the Accused- undertrial Under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in favour of constitutionalism and the Rule of law of which liberty is an intrinsic part. In the given facts of a particular case, a constitutional court may decline to grant bail. But It would be very wrong to say that under a particular statute, bail cannot be granted. It would run counter to the very grain of our constitutional jurisprudence. In any view of the matter, K.A. Najeeb (supra) being rendered by a three Judge Bench is binding on a Bench of two Judges like us.”

9. Even in the recent judgment in case of **Anoop Singh .vs. U.T. of J and K (SLP (Cri) No.1398/2026)**

vide order dated 03.02.2026 has in paragraph no.8 held as under :

“8.The report is extremely disturbing. The report highlights the sorry state of affairs at the end of the prosecuting agency. We are at pains to note that in last 7 years, the prosecution has been able to examine only 7 witnesses. Prosecution still intends to examine 17 more witnesses. We wonder who are these 17 witnesses who are yet to be examined and if not examined, what would be the adverse effect on the case of the prosecution. However, the most unfortunate part of the report of the Trial Court is that past 82 hearings, not a single witness has been examined.”

10. In view of the above exposition of law and considering the fact that the investigation is complete and charge-sheet is filed, the accused is in jail since 26.01.2024, further there is least possibility of conclusion of trial, therefore, I am inclined to enlarge the applicant on bail. Hence the following order :

- (a) The application is allowed.
- (b) The applicant Sonu @ Mohammad Sarfaraj Jahangir Alam in connection with Crime No.71 of 2024 registered with MIDC Police Station, Nagpur City be released on bail on furnishing P.R. bond of Rs.50,000/- with one or two sureties in the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.
- (d) The accused shall provide his residential address

and cell number to Police Station concerned and shall not change his place of residence without prior intimation to the Investigating Agency.

- (e) The applicant shall not commit any similar type of offence.
- (f) The accused shall attend each and every date of trial regularly. If he fails to attend the trial for two consecutive dates, or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail.

11. The observations are *prima facie* in nature and the Trial Court shall not be influenced by the same .

12. All Misc. application(s), pending if any, shall stands disposed of accordingly.

13. Fees of the appointed Counsel be quantied as per rules.

(M.M. NERLIKAR, J.)

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