



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

CRIMINAL APPLICATION (BA) NO. 66/2025

(Tapas Nandadulal Ghosh 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. S. Chande, Advocate (appointed) for applicant.
Mr. V.A. Thakare, APP for non-applicant/State.
Mr. Ezaz Khan, Special Public Prosecutor for non-applicant/State.

CORAM: M. M. NERLIKAR, J.

DATED : 13/03/2026.

Heard.

2. By this application, the applicant is seeking bail in connection with Crime No.505/2020 registered with Police Station Sitabuldi, Nagpur for the offences punishable under Sections 409, 420, 467, 468, 470, 471, 34 of the Indian Penal Code.

3. Brief facts of the prosecution story is that the crime is registered on the basis of report lodged by sister-in-law of the victim Kiran Devpujari. At the time of filing of the said first information report ("FIR") Smt. Mukta Bobde was aged about 94 years and was suffering from age related health issues, therefore, the informant has filed the FIR on her behalf. The victim is the owner of the "Seasons lawns", situated at Aakashwani Square, Nagpur. The

applicant was appointed to take care of lawn bookings and other related works earning of Rs.9000/- per month as a salary and Rs.2500/- per booking as commission. The job of the applicant was to take bookings, deposit booking amount, and cheques in victim's bank account, incurring expenditure for maintenance of lawn, operating victim's account, and keeping accounts of the entire Seasons lawns. The applicant conspired with his wife and other-accused and did not show the actual bookings done by various guests, and diverted the booking amount to his own account and accounts of other co-accused, and in this way, he depued the victim of approximately Rs. 2.5 crores. On the basis of the said report, police have registered the crime against the present applicant.

4. The learned counsel appearing for the applicant submits that principally the present application has been filed by the applicant on the basis of delay in trial. According to the learned counsel for the applicant, the trial is yet not concluded and the fundamental right guaranteed under Article 21 of the Constitution of India has been grossly violated the trial. He submits that the FIR was registered on 08/12/2020 and the applicant was arrested

on 09/12/2020 and since the date of arrest the applicant is in jail. He submits that there is no progress in the trial since 2023, therefore considering the long incarceration he deserves to be granted bail.

5. On the other hand, the learned APP and learned Special Public prosecutor opposes the application and submits that the trial would be concluded within six months. He submits that already 10 witnesses are examined. However, as in another case Enforcement Directorate is involved and case is registered under Prevention of Money Laundering Act against the applicant, therefore there is delay in concluding the trial. He submits that as the trial is at the fag end, the applicant may not be granted bail.

6. I have considered the rival submissions. Admittedly, it appears from the record that FIR was registered on 08/12/2020. He was arrested on 09/12/2020. Charge-sheet was filed on 04/03/2021 and charges are framed on 29/06/2021. It further appears that till 2023, 10 witnesses are examined. However, thereafter no witness was examined. Admittedly, the applicant is in

jail since 09/12/2020. As could be seen from the record that after 2023, for the best reasons known to the prosecution the witnesses are not examined and the trial is not concluded. The learned Special Public Prosecutor has submitted that one ED case was also registered against the applicant and it was tagged along with the present proceedings. Therefore, the trial could not proceed. However, the said explanation cannot be considered as fundamental right of the applicant is infringed.

7. 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.”

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.”

Even in the recent judgment in case of **Anoop Singh .vrs. 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.”

8, Considering the above exposition of law, the Supreme Court has in clear terms stated that long incarceration of the accused person violate the fundamental right guaranteed under Article 21 of the Constitution of India. In the present case, the applicant is in jail since last five years. Therefore, considering the above, the applicant deserves to be granted bail on the ground of delay in trial. Hence the following orders:-

ORDER

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused Tapas Nandadulal Ghosh be released on regular bail in connection with Crime No.505/2020 registered with Police Station Sitabuldi, Nagpur for the offences punishable under Sections 409, 420, 467, 468, 470, 471, 34 of the Indian Penal Code on his furnishing P.R. Bond of Rs. 25,000/- with one surety in the like amount.
- (iii) The accused 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.

(iv) The accused shall provide his residential address and cell number to concerned Police Station and shall not change his place of residence without prior intimation to the concerned Investigating Officer.

(v) The applicant/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.

(vi) The learned counsel appointed for the applicant states that the fees to be paid to him through Legal Aid be deposited in the account of "Public Welfare Account" bearing A/C No.129712010001014 and IFSC Code UBIN0812978.

(M. M. NERLIKAR, J.)