

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

CRIMINAL APPLICATION NO. 285 OF 2025

Subrato Kartik Devnath

..VS..

State of Maharashtra and anr.

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

Court's or Judge's orders

 Shri N.N. Adhikari, Advocate for the applicant.
 Ms T.H. Udeshi, APP for the non-applicant/State.
 Shri R.R. Maddalwar, Advocate for non-applicant no.2.
 (appointed)

CORAM: M.M. NERLIKAR, J.
DATE : 09.02.2026.

Heard.

2. By way of this application, the applicant is seeking bail in connection with Crime No.46 of 2022 registered with the Chamorshi Police Station, District Gadchiroli for the offence punishable under Sections 363, 366, 366(a), 376(2)(i), 376(2)(n), 506, 109, 34 of the Indian Penal Code and Sections 4 and 8 of the Protection of Children From Sexual Offences (POCSO) Act, 2012.

3. The victim had lodged the report alleging that she went to the village with one lady namely Jaguna Sukant Roy for training purpose of dress stitching. That time Jaguna had asked the victim to marry with her brother. Thereafter, on 19.01.2022, when the victim went to the canal for feeding water to cattle, the applicant along with one another person came there, threatened the victim, took her on motorcycle and thereafter in red sumo car. The informant was knowing

the driver of the car. The applicant took the victim to the temple at about 7.30 pm and other persons followed them with that motorcycle. The applicant garlanded the victim without her consent and took her to the house of the Sarpanch namely Krushna Mandal, where the applicant informed the entire episode to the said Sarpanch. That night, the applicant had physical relations with the informant for three times without her consent. Next morning maternal uncle of the victim had been to the house of Sarpanch and after discussion, the maternal uncle of the informant and other persons took the informant to Shantigram, where she stayed for 15 days. On 05.02.2022, at the time of puja ceremony in the Shantigram village, the applicant forcibly took the victim to his house at Subhashgram on motorcycle. Therefore, the report has been lodged against the present applicant by the victim.

4. Learned Counsel for the applicant submits that the FIR has been registered on 10.02.2022, whilst the applicant was arrested on 12.02.2022. The investigation is complete and charge-sheet has been filed on 11.04.2022. It is submitted that the applicant is behind the bar however, till today except for framing of charge there is no further development in the trial. Considering the long incarceration, the present applicant deserves to be enlarged on bail.

5. *Per contra*, learned APP and learned appointed Counsel for non-applicant no.2 vehemently oppose the application on the ground that the crime is serious in nature. The present applicant had raped the minor, who

was 14 years of age at the time of incident. Considering the heinous and serious nature of offence, the applicant does not deserve the bail.

6. I have heard the rival submissions. 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 .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.”

7. Admittedly, the investigation is complete and charge-sheet has been filed on 11.04.2022. The applicant was arrested on 12.02.2022 and since then he is behind the bar i.e. from 4 years. On 17.03.2025, charges have been framed. However, even thereafter, there is no progress in the trial. Considering the fact that there is delay in trial and the applicant has a fundamental right of speedy trial guaranteed under Article 21 of the Constitution of India, I am inclined to enlarge the applicant on bail. Hence the following order :

(a) The application is allowed.

- (b) The applicant/accused Subrato Kartik Devnath in connection with Crime No.46 of 2022 registered with Chamorshi Police Station, District Gadchiroli be released on bail on furnishing P.R. bond of Rs.50,000/- with one or two sureties in the like amount.
 - (c) 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.
 - (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/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.
8. The observation of this Court are *prima facie* in nature and the Trial Court shall not be influenced by the same.
9. All Misc. application(s), pending if any, shall stands disposed of accordingly.
10. Fees of the appointed Counsel be paid as per Rules.

(M.M. NERLIKAR, J.)