

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

CRIMINAL APPLICATION (BA) NO. 395/2026

(Gajanan S/o Devbaji Anjale Vs. State of Maharashtra & anr.)

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

Court's or Judge's orders

Mr. N. R. Tekade, Advocate for applicant.
Mr. A. R. Madiwale, APP for non-applicant/State.
Ms. Garima Jain, Advocate (appointed) for non-applicant No.2.

CORAM: M. M. NERLIKAR, J.

DATED : 09/04/2026.

Heard.

2. By this application, the applicant is seeking bail in connection with Crime No.15/2023 registered with Police Station Civil Line, Akola for the offence punishable under Sections 377, 506 of the Indian Penal Code, Sections 3, 4, 5, 6, 8, 10 of the Protection of Children From Sexual Offences Act, 2012 and Sections 3(1)(r), 3(2)(v), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

3. Brief facts of the prosecution story are that on 13/01/2023, the informant lodged the First Information Report alleging that victim is her 11.5 years old son who on 13/01/2023 in the evening, disclosed that he is having

stomach pain. On being asked the reasons, he told the informant that the applicant took him on his motorcycle for eating jujube. On the way, the applicant purchased coconut oil. In the premises of PKV, accused committed unnatural sex with the victim through penetration and threatened to cut him into pieces if he raised alarm and informed another. Thereafter, the accused left the victim at his home. On this basis, the first information report was registered.

4. The principal ground raised by the learned counsel for the applicant is that the fundamental right guaranteed under Article 21 of the Constitution of India of speedy trial has been grossly violated as there is huge delay in conducting trial. He submits that the First Information Report was registered on 14/01/2023 and the applicant was arrested on the same day. He submits that though the charge- sheet is filed on 01/03/2023 and thereafter charges are framed on 21/08/2023, since that day, there is no progress in the trial. This Court has rejected his bail application on the basis of merits on 10/10/2023. Thereafter, he applied before the Trial Court on the ground of delay in trial, however, his application was rejected by

the Trial Court on 18/11/2024, therefore he submits that even thereafter also till today there is no progress in the trial and the matter is pending for leading the evidence. Therefore, he submits that considering the long incarceration of the applicant, the applicant cannot be languished in Jail for indefinite period, and therefore he is entitled to be released on bail.

5. On the other hand, the learned APP and the learned counsel appearing for the victim oppose the application and submit that the matter is listed for evidence, therefore the applicant cannot say that his fundamental right has been violated. They submit that the allegations against the applicant are serious in nature as he has committed unnatural sexual intercourse on 12 year old boy. Considering the age of the applicant and his activities, he is not entitled for bail as he would be a danger to the society and therefore, there is no merit in the application and same deserves to be rejected.

6. I have considered the rival submissions. As per status report, the matter is fixed on 18/04/2026 for evidence. It further appears from the Roznama that the

applicant on several occasions since the date of his arrest, was not produced before the Trial Court. From the entire Roznama as well as status report, I do not find that the applicant is at fault or has contributed to delay in trial.

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.”

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 .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.”

10. From the above observations of the Supreme Court, speedy trial is the fundamental right of the accused as guaranteed under Article 21 of the Constitution of India. It is irrelevant what offence has been committed by the accused while considering bail application on ground of delay in trial and therefore considering the above observation though the allegation against the applicant is serious in nature, the fact remains that the applicant is

behind bars since more than three years i.e. from 14/01/2023. Under such circumstances, I am of the considered opinion that the trial is not going to be concluded in near future and therefore the applicant cannot be put behind bars for indefinite period. Considering all these facts, I am inclined to grant bail, hence the following order:-

ORDER

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused Gajanan S/o Devbaji Anjale be released on regular bail in connection with Crime No.15/2023 registered with Police Station Civil Line, Akola for the offence punishable under Sections 377, 506 of the Indian Penal Code, Sections 3, 4, 5, 6, 8, 10 of the Protection of Children From Sexual Offences Act, 2012 and Sections 3(1)(r), 3(2)(v), 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act 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) Fees for appointed counsel be quantified and paid as per Rules.

(M. M. NERLIKAR, J.)

Gohane