



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [B.A.] NO. 1083 OF 2025

Mohammad Imram s/o Mohd. Israr

-- VERSUS --

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. R.A. Mardikar, Advocate a/w Mr. V.R. Deshpande,
Advocate for the Applicant.

Mr. D.V. Chauhan (Senior Advocate), P.P. a/w Mr. A.A.
Madiwale, A.P.P. for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : FEBRUARY 09, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.152/2023 for the offence punishable under Sections 302, 201, 143, 147, 148 and 149 of the Indian Penal Code, 1860, (IPC), registered with Police Station Old City, District Akola.

3. On 13/05/2023, Vilas Mahadevarao Gaikwad, the son-in-law of the complainant, left home for work as usual in the Old City, Akola area. He did not return home by evening. Later that night, the complainant observed that a group of unidentified people had gathered in the Harihar Peth area with stones, bricks, sticks, and iron pipes, allegedly shouting slogans, damaging property, and

creating a violent situation. The next morning, while searching for Vilas Gaikwad, the complainant found his slipper on Rajeshwar Setu bridge and was informed that someone had died during the incident. Upon visiting the hospital morgue, the complainant identified the deceased as Vilas Mahadevarao Gaikwad, who had sustained injuries on his head and body, with blood-stained clothes. Based on these information, the complainant lodged the FIR.

4. Without going into the merits of the case, the learned counsel appearing for the applicant submits that though he has filed application before the trial Court raising the ground of delay, however, the trial Court has not considered the same. He further submits that the F.I.R. was registered 15/05/2023, the applicant was arrested on 05/07/2023 and the charge-sheet was filed on 17/08/2023. The learned counsel appearing for the applicant further submits that the applicant is behind bar since more than two and half years. He submits that his earlier bail application was rejected by this Court on merits, however, in spite of filing of the charge-sheet on 17/08/2023, there is no progress in the trial. He further submit that, till today, even the charges are not framed. He further submits that as many as 44 witnesses are shown in the list of witnesses in the charge-sheet, and therefore, he

submits that trial is not going to conclude in the near future, and therefore, the applicant cannot be put behind bars for an indefinite period.

5. On the other hand, learned PR opposes the application and submits that earlier application of the applicant was rejected by this Court on merits. He further submits that he threw stones on the deceased. Lastly, he submits that considering the seriousness of the offence bail may not be granted.

6. Considering this fact, that the applicant is in jail since from 05/07/2023, and the charges are not framed and the fact that the list of witnesses shown in the charge-sheet is near about 44 witnesses. Naturally, the trial is not going to conclude in near future, and therefore, the accused cannot be put behind bars for indefinite period.

The observations of the Supreme Court, in the cases below are relevant in this regard:-

(i) Javed Gulam Nabi Shaikh VS State of Maharashtra and Another, (2024) 9 SCC 813;

(ii) Sheikh Javed Iqbal VS State of Uttar Pradesh, (2024) 8 SCC 293;

In *Javed Gulam Nabi Shaikh (supra)*, it is held in para 17 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.”

In *Sheikh Javed Iqbal (supra)*, it is held in Paragraph No.42 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. Najeed (supra) being rendered by a three Judge Bench is binding on a Bench of two Judges like us.”

7. Considering the dictum of the Supreme Court the gravity of the offence is immaterial when

the accused is in jail since many years. So far as the present applicant is concerned, admittedly, he is in jail for more than two and half years. Therefore, considering the facts which have surfaced on record, I am of the considered opinion that the present applicant can be granted bail on imposing stringent conditions. Hence, the following order:-

ORDER

(i) The Criminal Application is **allowed;**

(ii) The applicant/accused (Mohammad Imram s/o Mohd. Israr) be released on regular bail in connection with Crime No.152/2023 registered with Police Station Old City, District Akola, for the offence punishable under Sections 302, 201, 143, 147, 148 and 149 of the Indian Penal Code, 1860, (IPC), on his furnishing a P.R. bond of Rs.25,000/- (Twenty Five Thousand Rupees) with one solvent 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 Police Station concerned and shall not change his place of residence without prior intimation to the Investigating Agency;

(v) 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 or even trial Court *suo moto* take cognizance of this and cancel the bail;

(vi) Pending Misc. Application(s), if any, also stand disposed of.

8. The observations of this Court are *prima facie* in nature. The Trial Court shall not be influenced by the observations of this Court and the observations are restricted to this bail application only.

[M.M. NERLIKAR, J]