



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

CRIMINAL APPLICATION [B.A.] NO. 1088 OF 2025

Vijaykumar @ Raju Shamlal Dubey

-- VERSUS --

The 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. A.S. Manohar, Advocate for the Applicant.

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

CORAM : M.M. NERLIKAR, J.

DATE : JANUARY 20, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.320/2020 for the offence punishable under Sections 307, 364-A, 326, 397, 120-B of the Indian Penal Code read with Sections 4 and 25 of the Arms Act and under Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999, (MCOC Act), registered with Police Station Ram Nagar, District Gondia.

3. The First Information Report is lodged by Amar Gandhi on the allegation that on 09/10/2020 around 06:00 p.m. in the super market 5-6 persons assaulted the informant by iron rods and fist blows. The informant was abducted and taken to

the house of the applicant and confined in one room. Due to assault, the informant sustained fracture injuries. Thereafter, informant was rescued by his brother and taken to the hospital. On the aforesaid basis, the police registered the crime against the applicant.

4. The learned counsel appearing for the applicant submits that the First Information Report was filed on 10/10/2020 and the applicant was arrested on 16/10/2020. Since 2021, there is no progress in the trial, though the charge-sheet was filed on 08/03/2021. His submission is that his earlier bail application was rejected on merits by this Court. However, he is approaching this Court on the ground of delay as more than 5 years have lapsed, however, there is no progress in the trial.

5. On the other hand, the learned P.P. submits that, admittedly, the present applicant is in jail since 5 years and he has no objection to grant bail.

6.. This Court, by order dated 16/12/2025 called the status report from the trial Court. The said report is received. I have perused the status report, which is as under:-

“ At the outset, I beg to submit that in the instant case, accused persons are responsible for

delay of trial. It is submitted that accused No.8 has filed discharge application vide Exh.352 on 04/11/2025. No other accused persons has preferred any discharge application till date. Prosecution has given reply on said application on 11/11/2025. Thereafter, learned APP has made argument on said application on 24/12/2025. Thereafter, on 29/12/2025 said application Exh.352 is posted for order.

2. However, it is to be noted that on 13/06/2025 accused No.4 & 5 were not present and therefore NBW was issued against them. Thereafter, it is observed that accused No.2 to 7 are not attending the matter and therefore on 29/10/2025 NBW was issued against accused No.2 to 7. On 04/11/2025 accused No.6 & 7 appeared in the matter and applied for cancellation. Thereafter, on 11/11/2025 accused No.2, 4 & 5 have applied for cancellation. However, accused No.3 has not appeared and therefore NBW is issued against him. The same is not returned back.

3. Thereafter, again on 05/01/2025 it is noted that accused No. 2, 4, 5 & 10 filed exemption application without stating proper cause, hence the same was rejected. It is noted on this date that warrant issued against accused No.3 has not returned back. Therefore, NBW is issued against accused No.2, 3, 4, 5 & 10. However, today i.e. on 07/01/2026 accused No.10 has appeared and has applied for cancellation of NBW on the basis that she was under treatment. As such, the said NBW is cancelled. Here, it will not be out of place to mention that it can be seen that on one hand accused No.2, 3, 4 & 5 are not appearing in the instant case, yet accused No.1 who is well aware that accused No.2, 3, 4 & 5 are not appearing in the instant case has filed application stating that

charge be framed and matter be heard on day to day basis.

4. *It is to be noted that in the present matter except accused No.1 Vijaykumar @ Raju Dubey, all the other accused persons are on bail. Accused No.1 has changed his advocate for two times. He has even wasted time of the court by preferring bail application Exh.295, though his bail application is rejected by Hon'ble High Court. After rejection of the said bail application on 09/07/2025 it is to be noted that accused No.1 Vijaykumar @ Raju Dubey has filed application vide Exh.238, 239, 272, 276 & 277, 302, 319. Say of learned APP is called for. Even say of jail authority is called for. However, accused Vijaykumar @ Raju Dubey has avoided hearing of the said applications. Presently LADC advocate are appearing for accused No.1 Vijaykumar @ Raju Dubey.*

5. *Hence, it can be seen that in the instant case, accused persons are responsible for delay of trial. Hence, this status report."*

7. After perusal of the status report, it appears that the trial has not proceeded for one or other reasons including accused persons not appearing in the trial Court, however, it appears that, non-bailable warrant was issued and two accused persons have filed the application for cancellation of NBW. From the entire report, it appears that, till today, the charge is not framed. However, it seems that the accused No.1, i.e., present applicant is regularly appearing and the delay is not attributable to him, but the other accused persons. Except the

present applicant all other accused persons are on bail. 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.32 as under:-

“32. 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.”

8. 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 5 years. Therefore, considering the report and 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 (Vijaykumar @ Raju Shamlal Dubey) be released on regular bail in connection with in Crime No.320/2020 for the offence punishable under Sections 307, 364-A, 326, 397, 120-B of the Indian Penal Code read with Sections 4 and

25 of the Arms Act and under Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra Control of Organized Crime Act, 1999, (MCOC Act), registered with Police Station Ram Nagar, District Gondia, on his furnishing a P.R. bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties 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;

(vi) Pending Misc. Applications, if any, also stands disposed of.

[M.M. NERLIKAR, J]