



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

CRIMINAL APPLICATION [B.A.] NO. 1158 OF 2025

Suresh Bhagwanta Bethe

-- VERSUS --

State of Maharashtra and Another

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

Court's or Judge's orders.

Ms. Sapna S. Jadhav, Advocate for the Applicant.

Ms. S.Z. Haider, A.P.P. for the Non-applicant No.1/State.

Mr. Ashish R. Fule, Advocate (appointed) for the Non-applicant No.2.

CORAM : M.M. NERLIKAR, J.

DATE : FEBRUARY 11, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.134/2023 for the offence punishable under Section 376 (D)(A) of the Indian Penal Code, 1860, (IPC), and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, (POCSO), registered with Police Station Sirajgaon, District Amravati.

3. As per the First Information Report, the informant, reported the incident on behalf of her minor grand-daughter, who had come to her house on 22/04/2023 for celebrating Eid. On 25/04/2023 at about 3:30 p.m., the victim was sent to a nearby

field for bringing fodder for goats. As she did not return till about 4:30 p.m., the informant went in search of her and allegedly found her near bushes in the field, where one boy was lying over her and two other boys were standing nearby. On being noticed, the boys allegedly fled from the spot. The victim was frightened and, after being brought home, she disclosed that three boys had approached her from behind, gagged her and took her near the bushes, where one of them allegedly removed her clothes and committed forcible sexual assault, while the other two stood nearby. The accused persons were stated to be residents of the same village and known to the informant. Based on the said allegations, the F.I.R. was lodged.

4. The learned counsel appearing for the applicant submits that the bail application of the present applicant was rejected by this Court by an order dated 05/03/2024 on merits. She further submits that she has preferred another bail application claiming that the applicant is in jail since 27/04/2023. The applicant has preferred the application before the trial Court on the ground of “delay in trial”, however, the application was rejected by an order dated 20/12/2024. She further submits that since from that date, 2 years and 10 months have elapsed, that the applicant is in jail. She submits

that, the role of the present applicant in the entire episode is not of sexual assault, but only of abetment, Another co-accused has committed sexual intercourse with the victim, however, the present applicant was standing at the spot of incident and observing whether anybody was coming towards them.

5. On the other hand, the learned A.P.P and the learned counsel appearing for the victim vehemently opposes the application and submit that when earlier bail application was rejected by this Court, then second bail application would not be maintainable. She further submits that even the “delay in trial” could not be considered, as the trial has already started. They further submit that the victim is yet to be examined and considering the seriousness of the crime, the applicant does not deserve to be enlarged on bail.

6. After considering the rival submissions, 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. Najeeb (supra) being rendered by a three Judge Bench is binding on a Bench of two Judges like us.”

7. Considering the above exposition of law laid down by the Supreme Court, it is an admitted fact that the applicant was arrested on 27/04/2023. It further appears that though the trial has commenced, only two witnesses have been examined. It further appears that the Special Court is now vacant, as the learned Judge got promoted. Considering the long incarceration of the applicant, the applicant cannot be put behind bar for an indefinite period, though the Trial has commenced, therefore, I am inclined to grant bail on imposing stringent conditions. Hence, the following order:-

ORDER

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

(ii) The applicant/accused (Suresh Bhagwanta Bethe) be released on regular bail in connection with Crime No.134/2023 registered with Police Station Sirajgaon, District Amravati, for the offence punishable under Section 376 (D)(A) of the Indian Penal Code, 1860, (IPC), and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, (POCSO), on his furnishing a PR. 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;

(vii) Fees of the appointed counsel be quantified and paid as per rules.

[M.M. NERLIKAR, J]