



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

Criminal Appeal No.104 of 2026

Sanjay s/o Gangaram Avthare

vs.

*State of Maharashtra, through P.S.O., Sironcha, Police Station-Sironcha,
Distt. Gadchiroli*

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. H.P. Lingayat, Advocate for the Appellant.

Mr. A.B. Badar, A.P.P. for the Respondent/State.

CORAM : ANIL L. PANSARE & NIVEDITA P. MEHTA, JJ.
DATE : 1st APRIL, 2026.

On 11th March, 2026, the following order was passed:

“The appellant is seeking to quash and set aside order dated 25-7-2025 passed below Exhibit 93 by the learned Special Judge (UAP Act), Aheri in Sessions Case No. 71/2023 thereby rejecting the application seeking bail. This order was subject matter of appeal before this Court being Criminal Appeal No.428/2025, which was disposed of vide order dated 2-12-2025 in terms of following order.

“One of the issue which is involved is pendency of trial for want of permanent Additional Public Prosecutors.

2. Learned Senior Advocate and Public Prosecutor Shri D. V. Chauhan submits that corrective measures have been taken. Two Additional Public Prosecutors have been deputed. The State Government is in the process of issuing advertisement for appointment of Additional Public Prosecutors. The advertisement will be published in due course.

3. Thus, the State Government has taken cognizance of the issue involved at the Court at Aheri.

4. So far as present case is concerned, the appellant-original accused No.1 approached this

Court seeking release on bail for delay in trial.

5. We are informed that in view of special arrangement made, 17 witnesses have been examined till date. The trial is being taken up on day- today basis. It appears that trial will conclude shortly.

6. In the circumstances, we dispose of the appeal with liberty to the appellant to revive the prayer after two months if substantial progress is not achieved in time.

7. Copy of this order shall be served upon the trial Court.”

As could be seen, the learned Senior Counsel/ Public Prosecutor submitted that corrective measures have been taken, two Additional Public Prosecutors have been deputed, the State Government is in the process of issuing advertisement for appointment of Additional Public Prosecutors and that the advertisement will be published in due course.

When enquired as to whether advertisement is issued, learned Additional Public Prosecutor submits that he has no instructions. Learned counsel for the appellant submits that to be best of his knowledge, advertisement is not yet issued.

Another issue as highlighted by appellant is that after 17 witnesses, the prosecution has not examined the single witness till date.

In this regard, the order dated 2-12-2025 indicates that we were made to believe that special arrangement is made by deputing two Additional Public Prosecutors and accordingly 17 witnesses have been examined. This arrangement appears to have been not working now. Thus, it is of extreme importance to appoint Additional Public Prosecutor, failure to do so will affect the process of administration of justice and in a given case, may amount to interference in the administration of justice, if the trial is not completed expeditiously.

We accordingly call upon learned Additional Public Prosecutor to furnish before us the names of officials, who are responsible for appointment of Additional Public Prosecutors. He shall also seek instructions as to why necessary steps for issuing advertisement were not taken and

why should we not direct/recommend action against the erring officials. He shall further take instructions why should the appellant not released for failure of State Government to make arrangement, which otherwise is its duty.

At this stage, learned counsel for the appellant submits that material witnesses have been examined and have not supported the prosecution case and there are no criminal antecedents against the appellant. We are, therefore, inclined to release the appellant pending trial.

Learned Additional Public Prosecutor, however, shall take instructions as regards antecedents of appellant.

Kept back.

Steno copy of order be supplied to learned Additional Public Prosecutor.

Later on

Learned Additional Public Prosecutor seeks time to take instructions on the count that the officials are busy in legislative session. Time granted.

Stand over to 16-3-2026.”

02. Thus, we had shown our inclination to release the appellant during pendency of the trial, considering the fact that the material witnesses have not supported the prosecution case and, secondly, that there are no criminal antecedents against the appellant. That apart, an additional reason why the appellant should be set free, is the delay in conducting the trial, where undisputedly, the appellant is not responsible.

03. On the previous date i.e. on 16th March, 2026, we were informed that the Additional Public Prosecution has been appointed. Thereafter, only one witness is examined and he was examined on 30th March, 2026. Thus, it took 13 days after appointment of the A.P.P. to examine the witness in the trial. With this speed, we do not see that the right of the appellant to have speedy trial will be protected.

04. When enquired, the learned A.P.P. seeks time to go through the evidence. Copy of which was supplied to him on 27th March, 2026. Thus, the prosecution at all levels is casual. We, however, grant a days' time to the

A.P.P. to go through the evidence and make statement.

05. List the matter on 2nd April, 2026.

**sandesh*

(Nivedita P. Mehta, J.)

(Anil L. Pansare, J.)