



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

CRIMINAL APPLICATION [BA] NO. 223 OF 2026.

Yogesh Singh s/o Mahender Singh

-VERSUS-

The State of Maharashtra

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

Court's or Judge's Orders

Shri Y. Maheshwari, Advocate for the Applicant.

Ms P. Bawankule, A.P.P. for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : MARCH 24, 2026.

Heard.

2. The applicant came to be arrested in connection with Crime No.249/2021 registered with Deori Police Station, Tahsil Deori, District Gondia for the offence punishable under Sections 323, 341, 342, 365 and 395 of the Indian Penal Code, Sections 3(1) (i)(ii), 3(2), 3(4) and 3(5) of the Maharashtra Control of Organized Crimes Act ("MCOC Act") and Sections 3 and 25 of the Arms Act.

3. The aforesaid first information report came to be lodged by one Arjun Singh Jadeja, alleging that he along with his friend were traveling from Raipur to Nagpur in scorpio jeep. On the way, near

Deori he found 8 to 10 accused persons who came in front of their vehicle and stopped it. The informant and his friend was beaten by said persons and their mobile along with Rs.35,000/- were taken by them. Black cloth was tied on their eyes and they took the informant and his friend in their vehicle to one jungle and left them there. Hence, the report.

4. The principal ground which is raised by the learned Counsel for the applicant for release of the applicant is 'delay in trial'. It is submitted that under Article 21 of the Constitution of India it is a fundamental right of the accused to have a speedy trial. That though the applicant came to be arrested on 17.12.2021, charges are not framed till date, and therefore, considering the long incarceration of the applicant, he deserves to be released on bail.

5. On the other hand, the learned A.P.P. vehemently opposes the application by submitting that applicant and other co-accused have committed a serious offence. The applicant hails from Uttar Pradesh, and there is least possibility of him attending the trial, once he is released on bail. There is ample material against the applicant and the provisions of MCOC Act are invoked. She therefore, prays for rejection of application.

6. I have considered the rival contentions of the parties and gone through the material placed on record. It could be gathered from

the record that some of the accused persons have been released on bail either by this Court or the Court of Sessions. This Court by its order dated 27.01.2026 in case of **Sandeep Roshan Pal Singh .vrs. State of Maharashtra (Criminal Application (BA) No.1362/2025)**, has released said Sandeep, who also hails from Uttar Pradesh. It is also a fact that though the applicant came to be arrested on 17.12.2021, till date charges are not framed by the trial Court.

7. The Hon'ble Supreme Court in the case of **Javed Gulam Nabi Shaikh .vrs. State of Maharashtra and Another, (2024) 9 SCC 813**; has in paragraph 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.”

Further in case of **Sheikh Javed Iqbal .vrs. State of Uttar Pradesh, (2024) 8 SCC 293**; it has been held in paragraph 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.”

Even in the judgment in case of **Anoop Singh .vrs. U.T. of J & K (SLP (Cri) No.1398/2026)** vide order dated 03.02.2026, the Supreme Court 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.”

8. The Hon’ble Supreme Court has in a recent judgment in case of **Arvind Dham .vrs. Directorate of Enforcement – (2026 SCC**

Online SC 30), has in paragraph no.18 held as under :

“18. The right to speedy trial, enshrined under Article 21 of the Constitution, is not eclipsed by the nature of the offence. Prolonged incarceration of an undertrial, without commencement or reasonable progress of trial, cannot be countenanced, as it has the effect of converting pretrial detention in form of punishment. Economic offences, by their very nature, may differ in degree and fact, and therefore cannot be treated as homogeneous class warranting a blanket denial of bail.”

9. The applicant is behind bars since 17.12.2021 and considering the above observations of the Supreme Court, that it is immaterial what offence is committed by the applicant, when there is a long incarceration of the accused and there is no progress in the trial, it amounts to violation of Article 21 of the Constitution of India. In the case at hand, it appears that since the year 2021 till date, there is no progress and even charge is also not framed. In such circumstances, the applicant cannot be kept behind bars for indefinite period. Thus, considering the ratio laid down by the Hon'ble Supreme Court in catena of cases, and more particularly in the cases referred above, I am inclined to grant bail to the applicant. Hence, the following order.

ORDER

- (i) Criminal Application is allowed and disposed of.
- (ii) The applicant /accused Yogesh Singh son of Mahender Singh be released on regular bail in connection with Crime No.249/2021 registered with Deori Police Station, Tahsil Deori, District Gondia for the offence punishable under Sections 323, 341, 342, 365 and 395 of the Indian Penal Code, Sections 3(1) (i)(ii), 3(2), 3(4) and 3(5) of the Maharashtra Control of Organized Crimes Act ("MCOC Act") and Sections 3 and 25 of the Arms Act, on his furnishing P.R. Bond of Rs.50,000/-, with two sureties in the like amount i.e. one local surety and another having permanent residence in Kirampur, Tahsil Aurangabad, District Bulandshahr, Uttar Pradesh.
- (iii) The applicant /accused shall attend the local police station located within the jurisdiction of his permanent residence on 1st and 3rd Saturday of each month between 10.00 a.m. to 2.00 p.m.
- (iv) 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.
- (v) The accused shall provide his residential address and cell number to Police Station concerned and shall not change the place of residence without prior intimation to the Investigating Agency.

- (vi) The accused shall attend each and every date of trial regularly. If he fails to attend the trial on one date, or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail.
- (vii) The above observations are prima facie in nature, and restricted for the purpose of deciding this application. The Trial Court shall not get itself influenced by said observations, during the course of trial.
- (viii) Misc. Applications, if any, are also disposed of.

JUDGE.