



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

CRIMINAL APPLICATION (BA) NO. 23/2026

(Nilesh S/o Shivdas Chaudhari Vs. The State of Maharashtra & anr.)

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

Court's or Judge's orders

Mr. S.V. Sirpurkari, Advocate for applicant.
Mrs. APP for non-applicant/State.
Ms. Shilpa Soni, Advocate (appointed) for non-applicant No.2.

CORAM: M. M. NERLIKAR, J.

DATED : 13/03/2026.

Heard.

2. By this application, the applicant is seeking bail in connection with Crime No.365/2022 registered with Khamgaon City Police Station, Dist. Buldhana, for the offences punishable under Sections 307, 324, 326, 452, 376(2)(f), 376(2)(n), 354, 354-A, 354-D, 506 of the Indian Penal Code read with Sections 6, 10, 12 of the Protection of Children from Sexual Offences Act along with Sections 4, 25 of the Arms Act.

3. Brief facts of the prosecution story are that the informant in the present case has three sisters and one brother. Two sisters namely Punam and Ashwini are married in the same household. Ashwini is the wife of the present applicant. The younger sister Pallavi is the victim

in the present case. It is alleged that, when all the family members were asleep, the applicant on 24/07/2022 at about 04.00 am, knocked on the door and told that he came to meet them. At the same time, the informant and her elder sisters went to washroom outside, at that time the younger brother Vijay, victim and mother were in the house. While coming back home, the informant heard the noise of fighting and shouts of Vijay stating that the applicant assaulted the victim and to protect the daughter, mother tried covering her, but the applicant assaulted mother also with the Koyata as the applicant wanted to marry the victim. Hence, on such basis the present FIR has been lodged.

4. The learned counsel appearing for the applicant submits that the application is filed on the basis of merits as well as on delay in trial. He submits that he is not pressing bail on merit. However, he is pressing the ground of delay in trial. He submits that the FIR was registered on 24/07/2022 and he was arrested on 27/07/2022. He submits that almost three years have lapsed and still, there is no progress in the trial. Though the charges are framed on 25/08/2025, however, therefore there is no progress in

the trial. Therefore, He submits that this is a fit case to grant bail on the ground of delay in trial.

5. On the other hand, the learned APP and learned counsel appearing for non-applicant No.2 submit that the offence is serious in nature. The offence is against a woman. They submit that the charges are framed recently i.e. on 25/08/2025, therefore at the most hardly it will take six to nine months to conclude the trial, therefore, considering the seriousness of the offence, the applicant does not deserve to be granted bail.

6. I have heard both sides and considered rival submissions. This court has called the status report from the Trial Court in order to ascertain the status of the trial, wherein it is specifically stated that the charges were framed on 25/08/2025 and thereafter the matter was kept for leading the evidence. However, till date, evidence programme has not been submitted by the prosecution.

7. The Hon'ble Supreme Court in the case of *Javed Gulam Nabi Shaikh VS State of Maharashtra and Another, (2024) 9 SCC 813*; has in para 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 VS State of Uttar Pradesh, (2024) 8 SCC 293***; it has been held in para 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 recent judgment in case of **Anoop Singh .vrs. U.T. of J and K (SLP (Cri) No.1398/2026)** vide order dated 03/02/2026 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. Considering the above referred cases it could be gathered that the Supreme Court in unequivocal terms has observed that speedy trial is a fundamental right of the accused person, and if there is delay, then there would be a violation of Article 21 of the Constitution of India. In the present matter, admittedly the FIR was registered on 24/07/2022. The applicant was arrested on 27/07/2022. The charge sheet was filed in the month of October 2022 and almost after three years, the charges are framed on 25/08/2025.

9. Considering the status report and the fact that the applicant is behind bars since more than three years, I am inclined to grant bail. Hence, the following order:-

ORDER

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused Nilesh S/o Shivdas Chaudhari be released on regular bail in connection with Crime No.365/2022 registered with Khamgaon City Police Station, Dist. Buldhana, for the offences punishable under Sections 307, 324, 326, 452, 376(2)(f), 376(2)(n), 354, 354-A, 354-D, 506 of the Indian Penal Code read with Sections 6, 10, 12 of the Protection of Children from Sexual Offences Act along with Sections 4, 25 of the Arms Act on his furnishing P.R. Bond of Rs. 25,000/- with one 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 concerned Police Station and shall not change his place of residence without prior intimation to the concerned Investigating Officer.
- (v) The applicant/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) The Applicant/accused shall not enter the village Warkhed, Tal. Khamgaon, Dist. Buldhana till conclusion of trial.

(vii) Fees for appointed counsel be quantified and paid as per Rules.

(M. M. NERLIKAR, J.)

Gohane