



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

CRIMINAL APPLICATION [B.A.] NO. 134 OF 2026

Alfred S/o Logras Anthony

-- 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. Shashank Manohar, Advocate a/b. Mr. Anshuman Sambre,
Advocate for the Applicant.

Mr. V.A. Thakre, A.P.P. for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : MARCH 05, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.530/2020 for the offence punishable under Sections 143, 147, 148, 149, 302 and 120-B of the Indian Penal Code, 1860, Sections 4, 25, 7 and 27(3) of the Arms Act, 1959, registered with Police Station Ballarpur, District Chandrapur.

3. As per the First Information Report dated 08/08/2020, the informant stated that he and the deceased Suraj Bohariya were acquainted with each other as both were engaged in transportation work relating to coal from the mines of Western Coalfields Limited at Ballarpur. On 08/08/2020, at about 1:30 p.m., the informant along with Rajik Bhai and Rahul went to the old bus stand area in a Maruti

Swift car to collect a birthday banner. Thereafter, they went to a hotel near the old bus stand to have food. Even, Suraj Bohariya arrived at the said place and joined them. It is alleged that when they came outside the hotel and Suraj Bohariya sat in the driver's seat of the car, two persons arrived on a Pulsar motorcycle. One of them, alleged to be Alfred Anthony, fired multiple gunshots towards Suraj Bohariya. It is further alleged that Aman Andewar along with Avinash Bobade and Badal Harne also came to the spot and thereafter the assailants fled from the place. According to the informant, Suraj Bohariya sustained firearm injuries and was taken to the hospital and thereafter referred to Chandrapur, where he later succumbed to the injuries. The informant alleged that due to prior enmity, the accused persons had conspired and committed the said act.

4. The learned counsel for the applicant has pressed into service grant of bail on the ground of "delay in trial". He submits that the First Information Report was registered on 08/08/2020, and on the same day, the applicant was arrested and since 08/08/2020, the applicant is behind bar and there is no progress in the trial. He further submits that except the applicant, all accused are released on bail. This Court, by order dated 06/01/2025, in case of

Pranay Raju Saidal -Vrs.- The State of Maharashtra, in Criminal Application [B.A.] No.1096/2024, has granted bail on the ground of “delay in trial”. Even the Supreme Court has considered this issue in various judgments. Therefore, according to him, even the present applicant deserves to be enlarged on bail as speedy trial is a fundamental right guaranteed under Article 21 of the Constitution of India which is infringed in the present case due to delay in trial.

5. On the other hand, the learned A.P.P. vehemently opposes the application and submits that the trial would be conducted on day to day basis. The present applicant is the main accused and this Court may at the most direct the trial Court to conclude the trial within the stipulated period and, therefore, prayed to reject the application.

6. I have considered the rival submissions. 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.”

7. Considering the above exposition of law, speedy trial, as was held by the Supreme Court, is a fundamental right guaranteed under Article 21 of the Constitution of India. This Court, has called the status report from the trial Court and accordingly it was received on 04/03/2026, wherein the learned District Judge-1 and Additional Sessions Judge, Chandrapur, has given reasons for “delay in trial”. It appears from the report that the trial could not progress due to absence of absconding accused Nos.8 and 9, non-production of undertrial prisoners, i.e., accused Nos.2 and 5, and procedural delays, as accused has filed several applications, including bail applications, exemption applications, and discharge applications. Further, even the Covid-19 pandemic restriction and vacancies have been highlighted as one of the reason for causing delay in conducting trial. No doubt, there are ‘N’ number of problems with the District and

Sessions Judges and this Court is sensitive to those problems, however, speedy trial is the right of the accused persons guaranteed under Article 21 of the Constitution of India. When there is no fault on the part of the applicant for causing delay and there is long incarceration of the applicant, in that case, the application of the applicant for grant of bail has to be considered with utmost urgency. The Supreme Court has in catena of cases held that gravity of offence is irrelevant when considering the bail application on the ground of delay in trial and, therefore, considering the above exposition of law, and the fact that the applicant is behind bar since 08/08/2020, and there is least possibility of concluding trial, I am inclined to grant bail to the present applicant on imposing stringent conditions. Hence, the following order:-

ORDER

- (i) The Criminal Application is **allowed;**
- (ii) The applicant/accused (Alfred S/o Logras Anthony) be released on regular bail in connection with Crime No.530/2020 for the offence punishable under Sections 143, 147, 148, 149, 302 and 120-B of the Indian Penal Code, 1860, Sections 4, 25, 7 and 27(3) of the Arms Act, 1959, registered with Police Station

Ballarpur, District Chandrapur, on his furnishing a P.R. bond of Rs.25,000/- (Twenty Five Thousand Rupees) with one solvent surety in the like amount;

(iii) The accused shall not enter within the territorial jurisdiction of Ballarshah;

(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 his 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 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;

(vii) Pending Misc. Application(s), if any, also stand disposed of.

[M.M. NERLIKAR, J]