



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

Criminal Application (BA) No.174/2026

Narayan Bhaidya V State of Maharashtra thr PSO PS Sonala, Taq. Sangrampur, District
Buldhana

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. Sirpurkar, Advocate for applicant.
Ms Bawankule, APP for State.

CORAM : M. M. Nerlikar, J.

DATE : 25-02-2026.

Heard learned Counsel for the applicant, and learned APP
for the state.

2. By this application, the applicant is seeking bail in connection with Crime No.0090/2022 registered with the non-applicant police Station for offence punishable under Sections 302, 324, 120-B, 323, 506, 143, 146, 147, 148, 149 r/w Section 34 of the Indian Penal Code and Section 135 of the Maharashtra Police Act.

3. The prosecution story in nutshell is that, on 10-05-2022 brother of informant had a scuffle with accused over a trivial issue. On the intervening night of 13.05.2022 and 14.05.2022, the accused persons met the informant and asked about his brother and told him that they want to kill him. After seeking his brother Naran and Suresh caught hold his hands and gave him a blow by stick on the head. It is further alleged that the other accused have also assaulted the informant and his brother by fist and blows. The informant's brother later succumbed to injuries. Therefore, FIR came to be lodged against accused persons.

4. The applicant has raised the ground of delay in trial. He submits that the FIR was registered on 14-05-2022 and on 17-05-2022, the applicant was arrested. The chargesheet came to be filed on 12-08-2022. After filing of the chargesheet, the applicant has filed first bail application before the trial court on 08-02-2023 which was rejected on merits. Accordingly, he approached this Court by filing Criminal Application No.175/2023. This Court was not inclined to grant the bail, however a liberty was granted to move before the trial Court afresh after the eye witnesses are examined. He further submits that even thereafter there was no progress in the trial and therefore he was constrained to file second bail application before this Court i.e. Criminal Application No.1158/2023, wherein this Court by its order dated 07-05-2023 has shown its disinclination to grant bail. However, the applicant was granted liberty to file an application after 09 months if there is no substantial progress in the trial and the trial Court was directed to dispose of the trial within 09 months. Even thereafter there was no progress in the trial. Learned Counsel further submits that it is only for the first time after one year from the date of the order of this Court the charges are framed on 03-05-2025. However, even thereafter 15 dates were given and still no substantial progress was seen in the trial. He submits that on 11 occasions the applicant was not produced from jail and therefore the fault cannot be attributed to the applicant and accordingly considering all these factors he prayed to grant bail.

5. On the other hand, learned APP opposes the application and submits that the trial Court has rejected the bail application on merits.

She further submits that twice this Court had shown its disinclination to grant bail to the applicant. She further submits that though this Court has directed that trial Court to dispose of the trial within 09 months, however one fact cannot be ignored that this Court itself has granted liberty to the applicant to apply for bail after the examination of material witnesses. Therefore, she submits that when this Court has already considered the prayer of the applicant for grant bail this Court may not entertain the application for the third time and therefore she submits that the application is devoid of merits and be rejected.

6. I have considered the rival submissions.

7. It is not in dispute that the FIR was registered on 14-05-2022. Accordingly, the applicant was arrested on 17-05-2022. Further chargesheet was filed on 12-08-2022. Apparently, from 17.05.2022, the applicant is in jail. No doubt, the present application is the third application, however, the applicant has raised the ground of delay in trial in the present application. Earlier two bail applications were filed by the applicant wherein the following orders are passed.

On 26-04-2023 this Court has passed the following order :

“Yesterday i.e. on 25.04.2023, following order was passed :-

*“After having heard at length, when the Court was not inclined to grant relief, the learned senior counsel for the applicant seeks time to take instructions.
Stand over to 26.04.2023.”*

2. The learned senior counsel for the applicant, on instructions, seeks permission to withdraw the instant application with liberty to apply afresh if there is no progress in the trial for six months.

3. The first request could be granted. So far as liberty is concerned, considering the facts of the case, the applicant is granted liberty to move

before the trial court afresh after the eye witnesses are examined as prosecution witnesses.

4. At this stage, the learned Senior Counsel makes request to direct the trial court to expedite the trial. This request be made before the trial court which shall be considered by the trial Court on its own merit.”

On 07/05/2024 this Court has passed the following order :

- 1. The application is for grant of bail.*
- 2. After hearing the learned Counsel for the applicant to some extent and after going through the investigation papers, I have shown my disinclination to grant bail, hence, the learned Counsel for the applicant seeks permission to withdraw the application.*
- 3. The learned Counsel for the applicant also pointed out the earlier order passed by this Court, by which the trial was expedited and directed to dispose of the trial. He submitted that despite the said order passed even no charge is framed. Considering the said fact, the learned trial Court is directed to dispose of the trial within nine months.*
- 4. The applicant is at liberty to file an application after nine months, if there is no substantial progress in the trial.*
- 5. The application is disposed of as withdrawn.”*

8. Admittedly, the last order was passed on 07-05-2024 and this Court has directed the trial Court to dispose of the trial within 09 months and liberty was granted to the present applicant to approach this Court for grant of bail in case there is no substantial progress in the trial. Admittedly, there is no substantial progress in the trial and therefore I am

entertaining the third application of the applicant. Even from the date of last order i.e. 07-05-2025 thereafter for one year no charges were framed and it is for the first time on 03-05-2025, the charges are framed. Even after framing of the charge on 15 occasions it appears from the roznama that the matter was listed. However, the fact remains that on 11 occasions the applicant was not produced before the Court. Considering the fact that the applicant was arrested on 17-05-2022 and since from that date the applicant is in jail, more than 03 years and 10 month have lapsed. Therefore, it would be useful to refer to the judgment of the Hon'ble Supreme Court in *K.A. Najeeb vs Union of India*, reported in *AIR 2021 SC 712*, wherein it has been held that it is immaterial what offence has been committed by the accused when the accused is languishing in jail from many years. It would be further useful to refer to the other judgments also, which are-

(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.32 as under:-

“32. 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.”

9. Considering the dictum of the Hon’ble Supreme Court in the above referred cases the Hon’ble Supreme Court has in unequivocal terms ruled that Article 21 of the Constitution of India protects the valuable right of the accused in so far as speedy trial is concerned. Any infringement of Article 21 of the Constitution of India, so far as delay in trial is concerned, it would lead to grant of bail to the applicant. Considering the above facts and circumstances of the case and the fact that the applicant is behind bar since 17-05-2022 i.e more than 03 years and 10 months and there is no substantial progress in the trial, even after

the charges are framed, I am inclined to grant bail on stringent conditions.

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused be released on regular bail in Crime No.0090/2022 registered with police Station Sonala, Taq. Sangrampur, District Buldhana for offence punishable under Sections 302, 324, 120-B, 323, 506, 143, 146, 147, 148, 149 r/w Section 34 of the Indian Penal Code and Section 135 of the Maharashtra Police Act on his executing PR. Bond of Rs.25,000/- (Rupees Twenty Five thousand only) with one solvent surety in like amount.
- (iii) The applicant shall not enter into the village Hdiyamal, Taq. Sangrampur, District Buldhana.
- (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 the concerned Police Station and shall not change his place of residence without prior intimation to the concerned Investigating Officer.
- (vi) 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.

(M.M. Nerlikar, J.)