



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

CRIMINAL APPLICATION [BA] NO. 178 OF 2026.

Md. Shakib Md. Sharique Ansari

-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 S.U. Dable, Advocate for the Applicant.
Ms P. Bawankule, A.P.P. for the Non-applicant.

CORAM : M.M. NERLIKAR, J.

DATE : MARCH 10, 2026.

Heard.

2. The applicant came to be arrested in connection with Crime No.1/2023 registered with Sakkardara Police Station, Nagpur for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code. Charge Sheet came to be filed and Section 120-B of Indian Penal Code and Section 135 of Maharashtra Police Act came to be added.

3. The first information report in the matter came to be lodged by one Sk. Iqbal Sk. Moinuddin alleging that on

03.01.2023 he went to meet his brother Feeroz, where he had tea along with others. While Feeroz was sitting on his motorcycle, the applicant came and assaulted Feeroz with a weapon like knife on his chest and ran away from the spot. The informant and other persons took the injured to Medical Hospital, however, on the way Feeroz succumbed to the injuries. It is alleged that there was an old dispute between the family of applicant and informant, and out of said rivalry his brother was killed. Hence, the first information report.

4. The learned Counsel for the applicant submits that on 27.06.2025 this Court has passed the following order :

- “1. The application is for grant of bail.*
- 2. Heard learned Counsel for the applicant to some extent. Perused the investigation papers and I have shown my disinclination to grant bail. Hence, learned Counsel for the applicant seeks permission to withdraw the application with liberty to file after three months if the trial is not proceeded or substantially progressed. In view of the submission made by the learned Counsel for the applicant, liberty is granted to the applicant to move this Court after six months if the trial is not substantially progressed.*
- 3. The application is disposed of as withdrawn.”*

Pursuant to the said order, the applicant had applied for grant of bail on the ground of delay in trial and even as per the above order. The learned Counsel submits that there is no progress in the trial except for framing of charges on 24.09.2025. Liberty was granted to the applicant by this Court to move this Court after 6 months, if the trial has not substantially progressed. Copy of roznama is tendered across the bar, wherein it is revealed that after framing of charge on 24.09.2025, except for 2-3 occasions, the applicant was not produced from jail. The applicant was not produced on 30.10.2025, 12.11.2025, 25.11.2025, 08.12.2025, 22.12.2025, 16.01.2026, 29.01.2026, 12.02.2026 and 25.02.2026. It is submitted that the applicant is in jail since 04.01.2023 and even the prosecution is not interested in producing the applicant before the Court, therefore, in view of the liberty granted by this Court to apply once again after 6 months if the trial did not substantially progress, he has moved the present application, and prays for grant of bail.

5. The learned A.P.P. vehemently opposed the application by submitting that charges are framed, and since

the matter was kept for evidence, therefore, it cannot be said that the trial has not substantially progressed. She further submits that this Court was not inclined to grant bail to the applicant on merits, and even today also the application cannot be considered only on the ground of delay in trial, therefore, there is no merits in the application, and the applicant be rejected.

6. I have considered the rival contentions of the parties. Admittedly this Court by order dated 27.06.2025 granted liberty to the applicant to file application before this Court if the trial has not substantially progressed. Accordingly, the present application is filed. As noted above, though charges are framed on 24.09.2025, on most of the occasions the applicant was not produced from the jail before the Court. It further appears that the applicant is languishing in jail since 04.01.2023. Merely framing of charge cannot be said to be substantial progress in the trial. Substantial progress includes recording of evidence of material witnesses. However, in the present case, till today not a single witness has been examined, however, the fact remains that the applicant is

behind bars since 04.01.2023.

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 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 .vrs. 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. Najeer (supra) being rendered by a three Judge Bench is binding on a Bench of two Judges like us.”

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. In so far as the present case is concerned, as could be gathered from the facts, that the first information report was

registered on 03.01.2023, applicant came to be arrested on 04.01.2023 and is in jail since then i.e. for a period of more than three years. Charges are framed on 24.09.2025, and thereafter there is no substantial progress in the trial. Not a single witness has been examined, if this speed is considered, one does not know when the trial will conclude. 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 supra, 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 Md.Shakib Md. Sharique Ansari, be released on regular bail in connection with Crime No. 1/2023 registered with Sakkardara Police Station, Nagpur for the offence punishable under Sections 302 and 120-B of read with Section 34 of the Indian Penal Code and Section 135 of Maharashtra Police Act on his furnishing P.R. Bond of Rs.50,000/- with two sureties in the like amount.
- (iii) The accused shall not enter within the territorial jurisdiction where the informant is

residing, till the completion of the trial.

- (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.
- (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