



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

CRIMINAL APPLICATION [B.A.] NO. 227 OF 2026

Saurabh Sumit Pal @ Sojol Samir Barua

-- VERSUS --

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. N.S. Padia, Advocate for the Applicant.

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

CORAM : M.M. NERLIKAR, J.

DATE : APRIL 08, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.399/2023 for the offence punishable under Sections 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860, (IPC), Sections 14, 14-C of the Foreigners Act, 1946, and Section 12(1A) of the Indian Passport Act, 1967, registered with Police Station Kapil Nagar, District Nagpur.

3. The applicant is a foreign national (Bangladeshi). The First Information Report came to be registered on 02/09/2023. The allegations against the applicant is that he is illegally residing in India without valid documents. The applicant has illegally entered into India. It is alleged that a racket is

operated by co-accused persons who have brought the present applicant from Bangladesh based on forged documents and the applicant was residing at the relevant time in Hyderabad. It further appears that the applicant was arrested from Hyderabad on 10/09/2023.

4. The learned counsel for the applicant submits that since 10/09/2023 the applicant is behind bars. There is no progress in the trial, mere allegation against the applicant is that the applicant is a foreign national and living in India illegally. It is no ground to deny the bail. He further submits that Article 21 of the Constitution of India equally applies to foreign nationals, therefore, he submits that, fundamental right of speedy trial even to a foreign national is covered under Article 21 of the Constitution of India. Considering the law laid down by the Supreme Court in catena of judgments, the applicant be released on bail as there is no progress in the trial since filing of the charge-sheet, i.e., 01/11/2023. He further submits that on 24/11/2025, the prosecution has filed an application for addition of Sections 14(A) and 14(B) of the Foreigners Act, and accordingly, the learned Court below has allowed the said application and now the case is committed to the Court of Sessions as offence under Sections 14(A) and 14(B) is exclusively triable by the Sessions Court.

He further submits that the delay cannot be attributed to the applicant. Considering the fact that prosecution is going to examine 61 witnesses and till today charges are not framed, the applicant is entitled for bail on the ground of “delay in trial.”

5. On the other hand, the learned A.P.P. vehemently opposes the application and submits that the applicant is a foreign national (Bangladeshi), who has infiltrated into Indian territory without valid passport and other documents. The applicant is residing since 12 years in Hyderabad without proper documents. He further submits that a racket is being operated who has brought the applicant in India, and therefore, he submits that considering the seriousness of the offence, the applicant may not be released on bail on the ground of “delay in trial.”

6. I have considered the rival submissions. Article 21 of the Constitution of India is equally applicable to every foreign national. There are catena of judgments to that effect. Even in the latest order of the Supreme Court dated 18/03/2026 passed in Special Leave to Appeal (Cri.) No.2725/2026 (The Customs -Vrs.- Faridah Nakanwagi), in Paragraph No.4 the Supreme Court has held as under:-

“4. This is an issue which requires consideration. At times, an accused may not be in a position to furnish bail and solvent surety of the like amount due to his/her

financial constraints etc. Here is a case of a lady accused who is a foreign national. However, the fact remains that Article 21 of the Constitution would apply even to a foreign national sought to be prosecuted as an accused in this country. Once an accused has been able to make out a case for bail, then factors like financial difficulties etc. should not come in the way of an accused in getting himself or herself released on bail. ”

7. Considering the above observations of the Supreme Court, Article 21 is equally applicable to the present applicant. Admittedly, Article 21 gives right to the accused to have a speedy trial and if there is delay in trial, without there being fault of the accused, then it would amount to violation of the same. It would be useful to refer to the judgment of the 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 exposition of law, it is crystal clear that, the fundamental right guaranteed under Article 21 of the Constitution of India is also available to the present applicant. This Court has also called the status report from the trial Court. After perusal of the status report, it appears that, the applicant is not at fault for “delay in trial.” Further, it is necessary to be mention that, the charge-sheet was filed on 01/11/2023, however, the prosecution for the first time has filed application on 24/11/2025 for addition of Sections 14(A) and 14(B) of Foreigner Act, i.e., after more than two years, and therefore, the matter is now committed to the Court of Sessions. From the charge-sheet, it further appears that, the prosecution has cited as many as 61 witnesses. Under such circumstances, one does not know when the trial will conclude. Merely, because the applicant is a foreign national (Bangladeshi), that by itself, is not sufficient to detain the applicant. Hence, considering the above facts and

circumstances, I am inclined to grant bail by imposing stringent conditions. Hence, the following order:-

ORDER

(i) The Criminal Application is **allowed;**

(ii) The applicant/accused (Saurabh Sumit Pal) be released on regular bail in connection with Crime No.399/2023 for the offence punishable under Sections 420, 465, 468, 471 read with Section 34 of the Indian Penal Code, 1860, (IPC), Sections 14, 14-C of the Foreigners Act, 1946, and Section 12(1A) of the Indian Passport Act, 1967, registered with Police Station Kapil Nagar, District Nagpur, on his furnishing a PR. bond of Rs.50,000/- (Twenty Five Thousand Rupees) with two solvent surety in the like amount;

(iii) The applicant shall attend Kapil Nagar Police Station once a week, on every Saturday, between 10:00 a.m. and 1:00 p.m;

(iv) The applicant shall not leave the territorial jurisdiction of Nagpur District without prior permission of the Court;

(v) 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;

(vi) 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;

(vii) 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 can *suo moto* take cognizance of this and cancel the bail;

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

[M.M. NERLIKAR, J]