

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

CRIMINAL APPLICATION NO.228 OF 2026

Ankush s/o Shrikrushna Doifode

..vs..

State of Maharashtra and anr.

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

Court's or Judge's orders

Shri S.V. Sirpurkar,, Advocate for the applicant.
Mrs. M.H. Deshmukh, APP for the State.

CORAM: M.M. NERLIKAR, J.
DATE : 25.03.2026.

Heard.

2. By way of this application, the applicant is seeking bail in connection with Crime No.95 of 2024 registered with Sakharkheda Police Station District Buldhana for the offence punishable under Sections 363, 376(3), 366A, 114 of the Indian Penal Code and Section 4, 6, 8, 17 and 12 of the Protection of Children From Sexual Offences (POCSO) Act, 2012 on the ground of delay in trial.

3. The FIR was lodged by the father of the victim minor girl alleging rape on the pretext of false promise of marriage.

4. The Only ground raised by the applicant is infringement of his right guaranteed under Article 21 of the Constitution of India in respect of speedy trial. The applicant is in jail since 13.04.2024 and till today, even the charges are not framed. He invited my attention to the Roznama of the Trial Court, wherein according to

him, there has been no progress. The Hon'ble Supreme Court in catena of judgments has laid down that speedy trial is the fundamental right of the accused and if the trial does not progress, the accused is entitled for bail and therefore, prayed to enlarge the applicant on bail.

5. Learned APP appearing for the State and learned appointed Counsel for non-applicant no. 2 vehemently opposed the application on the ground that the applicant was arrested on 13.04.2024 and the charge-sheet is dated 10.06.2024. Thereafter, one of the co-accused was granted bail, however he was absent on the given date and therefore, against that accused non-bailable warrant was issued. Even if the present applicant is released on bail, there is every likelihood that he will not remain present during the trial. It is also pointed out that earlier this Court has rejected the bail application of the applicant vide order dated 16.12.2024 and therefore, the application deserves to be rejected as there are serious and heinous offences registered against the applicant.

6. I have considered the rival submissions and perused the record. I have called the status report from the Trial Court, from which it appears that charge-sheet was filed on 12.06.2024 and thereafter on 06.08.2024 the application for regular bail of the accused along with accused no. 2 came to be filed, which was decided by the trial Court on 04.10.2024. On 23.04.2025, second bail application was filed by the applicant and the same was decided on 04.11.2025. It is necessary to mention at this juncture that till today the Court is busy in deciding the bail applications and there is no progress in the trial. It

also appears from the status report that the charges are not framed till today.

7. The Hon'ble Supreme Court has considered the issue of delay in trial in catena of judgments stating that the accused cannot be put behind bars for an indefinite period, if the trial is not progressed. 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.”

8. 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.”

9. Even in the recent judgment in case of **Anoop Singh .vs. 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.”

10. In view of the above exposition of law and the fact that the accused is in jail since 13.04.2024 and there is delay in trial as even charges are not framed till today infringing fundamental right of speedy trial guaranteed under Article 21 of the Constitution of India, I am inclined to enlarge the applicant on bail. Hence the following order :

(a) The application is allowed.

- (b) The applicant Ankush s/o Shrikrushna Doifode in connection with Crime No.95 of 2024 registered with Sakharkheda Police Station District Buldhana be released on bail on furnishing P.R. bond of Rs.50,000/- with one or two sureties in the like amount.
- (c) The applicant shall not enter into the jurisdiction of village Jagdari, Tq. Sindkhedraja, District Buldana.
- (d) The applicant 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.
- (e) The applicant 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.
- (f) The applicant shall not commit any similar type of offence.
- (g) The applicant 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.

11. All Misc. application(s), pending if any, shall stand disposed of accordingly.

12. Fees of the appointed Counsel be quantified as per rules.

(M.M. NERLIKAR, J.)

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