



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

CRIMINAL APPLICATION [B.A.] NO. 314 OF 2026

Sima Parveen Abdul Rauf Ansari

-- 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. M.N. Ali, Advocate for the Applicant.

Ms. P.C. Bawankule, A.P.P. for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : MARCH 24, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.639/2022 for the offence punishable under Sections 363, 369, 370, 120-B of the Indian Penal Code, 1860, (IPC) and Sections 75, 81 and 84 of the Juvenile Justice (Care and Protection of Children) Act, 2015, registered with Police Station Kalamna, District Nagpur.

3. As per the First Information Report, the informant resides with her husband and children, including her infant son Jiten, aged about eight months. The accused, Yogendra Prajapati, was residing as a tenant in the neighbouring premises and had developed acquaintance with the informant's family by frequently visiting their house and taking

the child for short durations. On 10/11/2022, at about 12:00 noon, the accused took the infant child from the informant's house on the pretext of taking him to a nearby shop, however, he did not return. Upon inquiry, the informant found the accused's house locked and was unable to trace him or the child despite searching in the locality. It is alleged that the accused took away the minor child and absconded. Based on the said information, the F.I.R. was lodged.

4. The only ground raised by the learned counsel for the applicant is "delay in trial" and infringement of fundamental right of speedy trial guaranteed under Article 21 of the Constitution of India. He submits that the applicant is in jail since 11/11/2022. He submits that maximum punishment provided is of 10 years for the offence for which the applicant is charged. He further submits that there is no progress in the trial, though the charges are framed on 12/12/2025. When he filed the application before the trial Court for grant of bail on the ground of "delay in trial", the Court observed that there is no "delay in trial" considering the fact that various bail applications are filed one after another by the accused persons and, therefore, it has taken time. He submits that this cannot be the ground to reject the application. There is no fault on the part of

the applicant as the applicant is behind bars and, therefore, he submits that considering the law laid down by the Supreme Court in various cases, she be released on bail.

5. On the other hand, the learned A.P.P. vehemently opposes the application and submits that the delay is attributable to the applicant as was observed by the trial Court. She submits that the trial Court has given reasons while rejecting the bail application of the applicant. Now the charges are already framed, at the most, the Trial Court be directed to expedite the matter, therefore, she submits that there is no merit in the application.

6. I have considered the rival submissions. I have perused the order of the trial Court rejecting the application of the applicant. Apparently, merely some cases are pending before the trial Court is no means to reject the application, when there is long incarceration of the applicant. Further, it is made clear that merely filing of bail applications by the accused persons is also no ground to reject the bail application, when it was made on the ground of “delay in trial”. On the contrary, it can be said that the accused are exercising their statutory right provided under the Bharatiya Nagarik Suraksha Sanhita, 2023, (BNSS). Due regard is necessary to be given to the law laid down by the Supreme Court.

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, and the fact that the applicant is behind bars since 11/11/2022, 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 (Sima Parveen Abdul Rauf Ansari) be released on

regular bail in connection with Crime No.639/2022 for the offence punishable under Sections 363, 369, 370, 120-B of the Indian Penal Code, 1860, (IPC) and Sections 75, 81 and 84 of the Juvenile Justice (Care and Protection of Children) Act, 2015, registered with Police Station Kalamna, District Nagpur, on her furnishing a PR. bond of Rs.25,000/- (Twenty Five Thousand Rupees);

(iii) 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;

(iv) The accused shall provide her residential address and cell number to Police Station concerned and shall not change her place of residence without prior intimation to the Investigating Agency;

(v) The accused shall attend each and every date of trial regularly. If she fails to attend the trial for two consecutive dates, or fails to comply with the aforesaid conditions, her 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;

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

[M.M. NERLIKAR, J]

PIYUSH MAHAJAN