

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

CRIMINAL APPLICATION (BA) NO.397/2026

(Ganesh S/o Kishor Thabade Vs. 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. D.S. Sirpurkar, Advocate for applicant.
Mr. V.A. Thakare, APP for non-applicant/State.

CORAM: M. M. NERLIKAR, J.

DATED : 17/04/2026.

Heard.

2. By this application, the applicant is seeking bail in connection with Crime No. 347/2024 registered with Police Station Mehakar, Dist. Buldhana for the offences punishable under Sections 302, 506, 109, 120-B, 201, 34 of the Indian Penal Code.

3. Brief facts of the prosecution case are that the informant is the father of the deceased. It is alleged that on 27/05/2024, when the informant, his wife Rekha Nanaware and his son Sagar were present in their house, the applicant allegedly came there and started abusing loudly and called out the deceased. Upon hearing the commotion, the informant and his family members came outside the house, after which, the applicant allegedly

quarreled with him and threatened him with dire consequences and thereafter left the place. At about 11:30 p.m., on the same day, the informant received a phone call from his son Pawan, who informed him that the deceased had gone near Selani Baba Dargah on Janefal Road and that the applicant had severely assaulted him. Subsequently, on 28/05/2024 at about 02:00 a.m., Pawan again informed the informant that the deceased had sustained serious injuries in the assault. He was taken to the Government Hospital, Mehkar for treatment. After examination, the doctor advised that he be shifted to the Government Hospital, Buldhana for further treatment, and thereafter he was taken to Akola hospital, where the doctor examined him and declared him dead. On this basis, the first information report was lodged.

4. The learned counsel for the applicant submitted that applicant's fundamental right guaranteed under Article 21 of the Constitution of India of right to speedy trial has been infringed as there is delay in trial. Though he has applied for bail before the Trial Court on the said ground, but application was rejected. He submits that that first information report was registered on 28/05/2024,

whereas applicant was arrested on 15/06/2024. The charge sheet was filed on 12/09/2024 and till today even after about two years, no charges are framed. He submits that out of total six accused persons, five are released on bail and only the applicant is languishing in Jail. He submits that he would be readily available for trial, if he is released on bail. The delay in trial cannot be attributed to the applicant as he was not produced by the Jail Authorities for more than 40 times, therefore there is no progress in the trial. Though the accused was produced on certain dates as was referred by the Trial Court in its order dated 07/02/2026, however for some or other reasons, the matter was adjourned. As the applicant is not at fault for the delay in trial, therefore he submits that he be released on bail.

5. On the other hand, the learned APP submits that the applicant has committed serious offence and there is direct evidence against the applicant. Hardly one year and 10 months are over, therefore according to him, it cannot be said that there is delay in trial, therefore there is no question of infringement of his fundamental right. He pointed out from the order of the Trial Court that the

applicant was produced through Video Conferencing on four dates and lastly, on 03/07/2025 he was produced in person, therefore according to APP, this is not a fit case to grant bail only on the basis of delay in trial, therefore the application deserves to be rejected.

6. I have considered the rival submissions and perused the record. I have called the status report, but unfortunately, the status report received is not in detail and only a chart is provided which is not helpful. It was expected from the concerned Court who has forwarded the status report to give detailed report. Be that as it may. Admittedly, the first information report was registered on 28/05/2024. The arrest was made on 15/06/2024. The charge-sheet was filed on 12/09/2024. It appears from the record that after filing of the charge-sheet till today, no charges are framed. It further appears that there are several dates which were given by the Trial Court, but the applicant seems to have not been presented before the Trial Court on more than 40 occasions. Lastly, it could be gathered from the order of the Trial Court dated 07/02/2026 that the applicant was produced through video conferencing on four dates i.e. on 29/02/2025,

25/04/2025, 20/05/2025, 03/10/2025 and lastly on 03/07/2025 he was presented in-person. Therefore, it appears from the record that after 03/07/2025, the applicant was neither produced through video conferencing nor personally before the Trial Court. Therefore, due to this reason till today the charges are not framed.

7. 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 .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.”

10. Considering the above exposition of law and the fact that the applicant is behind bars since 15/06/2024, I am inclined to grant bail, hence the following order:-

ORDER

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused Ganesh S/o. Kishor Thabade be released on bail in connection with Crime No. 347/2024 registered with Police Station Mehakar, Dist. Buldhana for the offences punishable under Sections 302, 506, 109, 120-B, 201, 34 of the Indian Penal Code on his furnishing P.R. Bond of Rs. 25,000/- with one surety in the like amount.
- (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 his residential address and cell number to concerned Police Station and shall not change his place of residence without prior intimation to the concerned Investigating Officer.
- (v) 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.)

Gohane