



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

CRIMINAL APPLICATION [B.A.] NO. 423 OF 2026

Sunil Khemraj Bahekar

-- 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. Atul Rawlani, Advocate for the Applicant.

Ms. T.H. Udeshi, A.P.P. for the Non-applicant/State.

CORAM : M.M. NERLIKAR, J.

DATE : APRIL 16, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.320/2022 for the offence punishable under Sections 302, 120-B and 201 of the Indian Penal Code, 1860, (IPC), registered with Police Station Ranapratap Nagar, District Nagpur.

3. The informant reported that his younger brother, Bhojraj alias Arvind Rameshwar Domde, who was residing separately with his family at Sonegaon, left his house on 27/08/2022 at about 8:00 p.m. stating that he was going to collect payment from a contractor, but did not return and his mobile phone was found switched off. Despite search efforts and a missing complaint lodged at Sonegaon Police Station, his whereabouts remained unknown. On

29/08/2022, the informant was informed that the dead body of the deceased was found near Jaytala Bazaar. Upon reaching the spot, he identified the dead body of his brother, which was found wrapped in a mattress inside a pipe with serious head injuries and injury marks on the neck. Based on the same, the F.I.R. came to be lodged against unknown persons.

4. The learned counsel for the applicant submits that his fundamental right under Article 21 of the Constitution of India has been grossly violated, as there is no speedy trial. He submits that, the First Information Report was registered on 29/08/2022, and the applicant was arrested on 30/08/2022. He further submits that, the charge-sheet was filed in the month of November, 2022, whereas, the charges were framed on 24/10/2024. He further submits that five witnesses are examined and the last witness was examined on 05/08/2025. In the charge-sheet, total 42 witnesses have been cited. He further submits that, there are total three accused persons, out of which, two accused persons have been released on bail by this Court, and therefore, he submits that, considering the long incarceration, the applicant is required to be released on bail, as there is no further progress in the trial since the last witness was examined in the month of August, 2025.

5. On the other hand, the learned A.P.P. vehemently opposes the application and submits that already five witnesses have been examined. The trial is at the midst, and therefore, it cannot be said that, there is “delay in trial”. She further submits that, now the case has been transferred to another Court on 04/04/2026, however, other witnesses are yet to be examined, and therefore, according to her, there is no merit in the contentions raised by the applicant, and therefore, the application deserves to be rejected.

6. I have considered the rival submissions. This Court in the case of ***Kunal Rajesh Naik -Vrs.- State of Maharashtra***, in Criminal Application [B.A.] No.1214/2024, passed on 14/11/2025, has held in Paragraph No.7 as under:-

“ 7. In that respect, the learned Counsel for the applicant has relied on the judgment of the Hon'ble Apex Court in the case of Paras Ram Vishnoi Vs. The Director, Central Bureau of Investigation [2021 SCC Online SC 3606], wherein even after recording of statement under Section 313 of the Criminal Procedure Code, the Court has granted bail on the ground of delay in trial. The applicant has also relied on the judgment of the Hon'ble Apex Court in the case of Rup Bahadur Magar @ Sanki @ Rabin Vs. The State of West Bengal [Petition(s) for Special Leave to Appeal (Cri.) No(s). 11589/2024], wherein incarceration was about two years and nine

months. In this case also though the trial was initiated, considering the number of the witnesses, the Court has granted bail and direction is given not to time bound the matter. Reliance is also placed on the judgment of the Hon'ble Apex Court in the case of Bhooora Vs. State of Uttar Pradesh [(2018) 18 SCC 162], wherein the period of custody is considered by the Hon'ble Apex Court. In the case of Subhelal @ Sushil Sahu Vs. The State of Chhattisgarh [Criminal Appeal No.818/2025], it is observed by the Hon'ble Apex Court that though 50 witnesses were examined before the oral evidence is closed and considering the period to examine the other witnesses, the bail was granted.”

It would also 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-under trial 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. Najeed (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 law laid down by the Supreme Court and this Court, it is crystal clear that, even if the witnesses are examined, however, if there is long incarceration, the accused/applicant cannot be kept behind bars for indefinite period. Admittedly, the F.I.R. was registered on 29/08/2022, the applicant was arrested on 30/08/2022, charge-sheet was filed in the month of November, 2022, the charges were framed on 24/10/2024, and thereafter, five witnesses are examined. The last witness was examined on 05/08/2025, however, it is to be noted that, thereafter, not a single witness was examined, now again, the present case/trial is transferred to some another Court for taking further evidence. Therefore, under such circumstances, as was observed by the Supreme Court and this Court that, merely examining few witnesses, that by itself, is not sufficient to deny the bail. Here in this case, in the charge-sheet, total 42 witnesses are shown. If the speed of the trial is considered, under such circumstances, it can be said that there is no

possibility of the trial being concluded in the near future, and therefore, considering the above factual background, and the fact that the applicant is behind bars since 30/08/2022, i.e., more than 3 years 7 months and 17 days, 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 (Sunil Khemraj Bahekar) be released on regular bail in connection with Crime No.320/2022 for the offence punishable under Sections 302, 120-B and 201 of the Indian Penal Code, 1860, (IPC), registered with Police Station Ranapratap Nagar, District Nagpur, on his furnishing a P.R. bond of Rs.25,000/- (Twenty Five Thousand Rupees) with one solvent 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 Police Station concerned and shall not change his

place of residence without prior intimation to the Investigating Agency;

(v) 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;

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

[M.M. NERLIKAR, J]