



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPLICATION NO.445 OF 2026

Parmeshwar s/o Vishnu Wayal

..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

Shri R.M. Daga, Advocate for the applicant.
 Shri V.A. Thakre, APP for the State.

CORAM: M.M. NERLIKAR, J.
DATE : 23.04.2026.

Heard.

2. By way of this application, the applicant is seeking bail in connection with Crime No.26 of 2024 registered with Kingaon Raja Police Station, District Buldhana for the offences punishable under Sections 302, 307, 323, 504, 506 read with 34 of the Indian Penal Code, mainly on the ground of delay in trial.

3. The FIR was lodged by the father of the deceased Gajanan alleging that on 31.01.2024 about 8.00 p.m. a quarrel took place between the applicant and his family members and the deceased, in which the applicant picked up a wooden log and gave a blow on the head of the deceased due to which he got injured and during treatment he succumbed to the injury.

4. Learned Counsel for the applicant submits that the applicant was arrested on the date when the FIR came to be lodged and since then he is in jail, i.e., 01/02/2024. It is also submitted that he had filed a Special Leave to Appeal before the Hon'ble Supreme

Court against the order of rejection of bail passed by this Court on merits, however, it was withdrawn and the Supreme Court has granted liberty to file a fresh application after some time if the trial is not progressed, therefore, the applicant is before this Court. There is no progress in trial till date. To substantiate the said contention he has placed on record the Roznama from which it appears that the applicant was not produced before the Trial Court on many dates. Accused nos.2 to 4, who have been released on bail, were not present for framing of charge and therefore, the applicant has filed the application for bail, surprisingly the Trial Court has immediately framed the charge against the applicant only and not against the other accused persons. It is also submitted that he has raised the ground of the delay in trial in his application before the Trial Court, however, the Trial Court has not touched the said ground in the impugned order. Therefore, considering the fact that there is no progress in trial and on the ground of delay in trial, the applicant deserves to be enlarged on bail.

5. On the other hand learned APP vehemently opposes the application on the ground that the charges are framed against the applicant and therefore it cannot be said that there is delay in trial. The applicant has withdrawn his application before the Supreme Court and in such circumstances, it can be said that the order of this Court rejecting his application previously, has been confirmed by the Supreme Court, though the Supreme Court has granted liberty to file a fresh application. The allegations against the applicants are serious in nature

and punishment provided is life imprisonment or death and therefore, there is no merit in the application, the same deserves to be rejected.

6. I have considered the rival submission and perused the record. It appears that the applicant was arrested on the same day of lodging of FIR. The applicant has approached this Court previously on merits however his application came to be rejected and accordingly against the same, he approached the Supreme Court, however, it was withdrawn and the Supreme Court has granted liberty to the applicant to file fresh bail application if there is no progress in trial and therefore, the applicant has filed fresh bail application before the Trial Court, which came to be rejected. It appears that in that application the applicant has raised a ground of delay in trial, which has not been dealt by Trial Court. From Roznama it appears that accused nos. 1 to 4 were already released on bail however they are not attending the court regularly. Also, the applicant was not produced before the Magistrate by the Jail Authority on many dates, except on one occasion through video conferencing. Therefore it appears that the applicant is not at fault. The Court ought to have taken steps to secure the presence of other accused persons. For the fault of other accused persons the applicant cannot be kept behind bars for indefinite period.

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 the bars for 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 considering the fact that the investigation is complete and charge-sheet has been filed, the accused is in jail since 01.02.2024 and there is delay in trial infringing applicant's fundamental right of speedy trial guaranteed under Article 21 of the Constitution of India, I am inclined to enlarge the applicant on bail. It is the duty of the Constitutional Court to safeguard the fundamental rights of the accused persons. Hence the following order :

- (a) The application is allowed.
- (b) The applicant Parmeshwar s/o Vishnu Wayal in connection with Crime No.26 of 2024 registered with Kingaon Raja Police Station, District Buldhana be released on bail on furnishing P.R. bond of

Rs.50,000/- with one surety in the like amount.

- (c) 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.
- (d) 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.
- (e) The applicant shall enter into the vicinity of village Dhanora, Tq. Sindkhed Raja, District Buldhana.
- (f) The applicant shall not commit any similar type of offence.
- (g) The accused shall attend each and every date of trial regularly. If he fails to attend the trial for a **single date**, 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 stands disposed of accordingly.

(M.M. NERLIKAR, J.)

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