



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

CRIMINAL APPLICATION [BA] NO. 491 OF 2026.

Lyakat Ali Altaf Ahmad Ali.

-VERSUS-

State of Maharashtra and another.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri N.S. Khandewale, Advocate for the Applicant.

Shri N.R. Rode, A.P.P. for Non-applicant No.1/State.

Ms V.S. Mohod, Advocate (Appointed) for Non-applicant No.2.

CORAM : M.M. NERLIKAR, J.

DATE : JUNE 08, 2026.

Heard.

2. The applicant came to be arrested in connection with Crime No.982/2024 registered with Police Station Bhandara, District Bhandara for the offence punishable under Section 64[1] of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO). Charge sheet came to be filed and Section 6 of the POCSO came to be added.

3. The first information report came to be lodged by

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Pravin Ramesh Nitnaware, Police Official attached to Police Station Bhandara, stating that on 28.09.2024 Women and Child Development Department, Bhandara had forwarded a video clip, which showed sexual assault on a minor. On investigation it was found that the applicant was the person who had committed the said sexual assault. In view of this, the aforesaid crime came to be registered.

4. The principal ground raised by the learned Counsel for the applicant is that the fundamental right of speedy trial guaranteed under the Constitution of India to the applicant has been violated. Though the first information report was registered on 09.10.2024, and the applicant came to be arrested on 11.10.2024, till today inspite of charge being framed on 17.06.2025, not a single witness has been examined. It is submitted that right to speedy trial is grossly infringed. The learned Counsel further submits that even the Supreme Court has considered the issue of delay in trial in catena of judgments. My attention is invited to the observations of Supreme Court in case of **Sahil Manoj Machare .vrs. The State of Maharashtra (Petition for Special Leave to**

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Appeal (Cri) No.7502/2026 dated 04.05.2026), wherein the Supreme Court has observed that - howsoever serious the crime may be, if the right of speedy trial is infringed, then Court must consider the plea for bail appropriately.

5. On the other hand the learned A.P.P. for State and learned Counsel appearing for the non-applicant no.2 vehemently opposed the application. They submit that though the applicant was arrested on 11.10.2024, it cannot be said that there is delay in trial as effective steps are taken by the prosecution and the Court from time to time, which has consumed time. Charge was already framed and prosecution is ready to conduct the trial. It is submitted that forensic photo analysis report was not received at the relevant time, however, now the same has been received. The photo analysis report is positive, meaning thereby the applicant was identified. Therefore, considering the seriousness of the crime and the fact that the minor victim was sexually assaulted, the applicant does not deserve to be released on bail.

6. I have considered the rival submissions. No doubt,

prima facie the allegations against the applicant appears to be heinous, however, as was observed by the Supreme Court in case of Sahil Machare [supra], that howsoever serious the crime may be, if the right of speedy trial is infringed, then the Court must consider the plea for bail.

7. In such circumstances, it can be seen that in the present case, the first information report is registered on 09.10.2024, applicant was arrested on 11.10.2024, charge sheet was filed on 07.12.2024 and charge is framed on 17.06.2025. It is a matter of record that the charges are framed in the month of June, 2025 i.e. almost one year is over, the prosecution was not able to examine even a single witness.

It is further to be noted that in the charge sheet 30 witnesses are cited, and one does not know when the trial will commence and conclude. The Supreme Court has time and again reiterated the position of law regarding delay in trial.

8. The Hon'ble Supreme Court in the case of **Javed Gulam Nabi Shaikh .vrs. State of Maharashtra and Another, (2024)**

9 SCC 813; has in paragraph 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 .vrs. State of Uttar Pradesh, (2024) 8 SCC 293;** it has been held in paragraph 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 judgment in case of **Anoop Singh .vrs. U.T. of J & K (SLP (Cri) No.1398/2026)** vide order dated 03.02.2026, the Supreme Court 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.”

9. The Hon’ble Supreme Court has in a recent judgment in case of **Arvind Dham .vrs. Directorate of Enforcement – (2026 SCC Online SC 30)**, has in paragraph no.18 held as under :

“18. The right to speedy trial, enshrined under Article 21 of the Constitution, is not eclipsed by the nature of the offence. Prolonged incarceration of an undertrial, without commencement or reasonable progress of trial, cannot be countenanced, as it has the effect of converting pretrial detention in form of punishment. Economic offences, by their very nature, may differ in degree and fact, and therefore cannot be treated as homogeneous class warranting a blanket denial of bail.”

10. Considering the above exposition of law and the fact that the applicant is behind bars since 11.10.2024 i.e. 1 year and 8 months, I am inclined to grant bail to the applicant. Hence, the following order.

ORDER

- (i) Criminal Application is allowed and disposed of.
- (ii) The applicant /accused Lyakat Ali Altaf Ali be released on regular bail in connection with Crime No.982/2024 registered with Police Station Bhandara, District Bhandara for the offence punishable under Section 64[1] of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) on his furnishing P.R. Bond of Rs.50,000/- with two sureties in the like amount.
- (iii) The accused shall not enter within the territorial jurisdiction where the victim is residing, till the completion of the trial.
- (iv) 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.
- (v) The accused shall provide his residential address

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and cell number to the Police Station concerned and shall not change his place of residence without prior intimation to the Investigating Agency.

- (vi) The accused shall attend each and every date of trial regularly. If he fails to attend the trial for one single date, or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail.
- (vii) The above observations are prima facie in nature, and restricted for the purpose of deciding this application. The Trial Court shall not get itself influenced by said observations, during the course of trial.
- (viii) Misc. Applications, if any, are also disposed of.
- (ix) Fees of the appointed Counsel be determined and paid as per Rules.

JUDGE