



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

CRIMINAL APPLICATION NO.578 OF 2026

Indrajit s/o Sagar Khobragade

..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 Y.P. Bage, Advocate (appointed) for the applicant.
Mrs S.Z. Haider, APP for the non-applicant/State.

CORAM: M.M. NERLIKAR, J.

DATE : 08.05.2026.

Heard.

2. By way of this application, the applicant is seeking bail in connection with Crime No.249 of 2021 registered with Aheri Police Station, District Gadchiroli for the offences punishable under Sections 302, 147, 148, 149 and 120(B) of the Indian Penal Code, on the ground of delay in trial.

3. The First Information Report came to be lodged against unknown persons who allegedly assaulted the deceased Jagannath Sidam, who died due to the injuries. During the investigation, upon the statement of co-accused, the applicant is arraigned as an accused.

4. Learned Counsel for the applicant is seeking bail on the ground of delay in trial. It is submitted that the applicant came to be arrested on 09.07.2021, charge-sheet was filed on 09.09.2021 and the charges are framed on 21.09.2022. Till today only 13 witnesses are examined. PW12 was examined on 12.07.2024 whereas PW13 was examined on 27.03.2026. After more than one

and half year PW13 was examined. So far as the charge-sheet is concerned, 45 witnesses are shown to be examined and one does not know when the trial will be concluded. Therefore, his right of speedy trial guaranteed under Article 21 of the Constitution of India is grossly violated and hence the applicant is entitled to be released on bail.

5. On the other hand, learned APP appearing for the State vehemently opposes the application on the ground that 13 witnesses are examined and at the most the Trial Court can be directed to conclude the trial within stipulated period. Considering the seriousness of offence committed by the applicant, the application is prayed to be rejected.

6. I have considered the rival submissions and perused the record.

8. Hon'ble Supreme Court has considered the issue of delay in trial in catena of judgments stating that the accused cannot be put behind bars for indefinite period, if the trial has 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.”

9. 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.”

10. 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.”

11. Recently, the Hon’ble Supreme Court dealt with an issue where the trial was at the midst in the case of Vaibhav Singh vs. State of Uttar Pradesh 2026 LiveLaw (SC) 439, particularly in paragraph 12 observed as under:

“12. In many of our Judgments and on many occasions, we have said in so many words that howsoever grave the crime may be, but if the accused is denied his right of speedy trial and is languishing in jail for years together and for no fault on his part, he cannot be kept in jail for indefinite period.”

Considering the fact that the applicant is behind bars since 09.07.2021, charge-sheet was filed on 09.09.2021, charges are framed on 21.09.2022 and till today only 13 witnesses are examined, I am inclined to allow the application as in the charge-sheet about 45 witnesses are shown to be examined. No doubt, prosecution may not examine all the witnesses. However, in view of the above exposition of law and considering the fact that there is delay in trial and the applicants’ fundamental right of speedy trial guaranteed under Article 21 of the Constitution of India is infringed, I am inclined to enlarge the applicant on bail. Hence the following order :

(a) The application is allowed.

(b) The applicant Indrajit s/o Sagar Khobragade in

connection with Crime No.249 of 2021 registered with Aheri Police Station, District Gadchiroli for the offences punishable under Sections 302, 147, 148, 149 and 120(B) of the Indian Penal Code 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 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.

12. All Misc. application(s), pending if any, shall stands disposed of accordingly.

13. Fees of the appointed Counsel be paid as per rules.

(M.M. NERLIKAR, J.)

