



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

CRIMINAL APPLICATION NO.581 OF 2026

Swapnil s/o Chandrakant Kashikar

..vs..

State of Maharashtra

Office Notes, Office Memoranda of Coram,
orders
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's

Shri S.A. Mohta, Advocate for the applicant.
Shri A.M. Kadukar, APP for the State.

CORAM: M.M. NERLIKAR, J.

DATE : 11.06.2026.

Heard.

2. By way of this application, the applicant is seeking bail in connection with Crime No.84 of 2024 registered with Ramnagar Police Station, District Chandrapur for the offences punishable under Sections 149, 148, 147, 302, 143, 120-B of the Indian Penal Code read with Section 135 of the Maharashtra Police Act, 1951, and Sections 4 and 25 of the Arms Act mainly on the ground of delay in trial.

3. The crime is registered on the basis of the report lodged by Nilesh Bhagwan Hiwrale on an allegation that the deceased Shiva used to work with the present applicant as a contractor however later he left. It is further alleged the present applicant had purchased two wheeler having Registration No.MH-34-1500 in the name of deceased. The said vehicle was on loan however as the loan installments were not paid regularly, there were

disputes between the applicant, co-accused Himanshu and the deceased Shiva. On 25.01.2024, at around 8.00 PM Himanshu called the deceased and abused him in a filthy language and asked him to come in front of the office of present applicant. When the deceased came on spot, the present applicant assaulted the deceased by knife on his vital body part . The co-accused also assaulted the deceased with fist and kick blows. Subsequently, the deceased succumbed to the injuries. On the basis of the said report, police has registered the crime against the present applicant.

4. Learned Counsel for the applicant mainly raised the ground of delay in trial to release him on bail and submits that the FIR came to be registered on 26.01.2024 and the applicant was arrested on the same day. The Charge-sheet was filed on 24.04.2024 and the case was committed to the Sessions Court on 06.05.2024. Therefore, despite arrest of the applicant on 26.01.2024, till today even the charges are not framed though two years and four months have lapsed therefore, the applicant's right to speedy trial under Article 21 of the Constitution of India has been violated. Therefore, the applicant prayed to be enlarged on bail on the ground of delay in trial. To substantiate the aforesaid arguments, reliance is placed upon the judgment of the Supreme Court in Criminal *Appeal Nos.4197-4199 of 2025 (Arising out of SLP (Criminal) Nos.5814-5816 of 2025) of Abhimanue etc. vs State of Kerala dated 22.09.2025.*

5. On the other hand, learned APP submits that the

applicant is involved in the serious crime of murder and he has inflicted 14 injuries on the deceased. He invited my attention to the order of this Court whereby the bail application of the present applicant came to be rejected on merits against which the applicant had approached the Hon'ble Supreme Court by way of Special Leave Petition, which was also dismissed as the Supreme Court showed its disinclination to interfere with the order of this Court. It was submitted that now the applicant is claiming bail on the ground of delay in trial, which cannot be entertained in this peculiar factual background as the applicant is having 10 criminal cases registered against him, which are serious in nature which shows that the applicant is a habitual offender. To substantiate the said contention, he has invited my attention to the chart enclosed by the applicant with his additional affidavit disclosing the criminal antecedents, which is reproduced herein below :

Sr. No .	CASE DETAILS OF APPLICANT	
1.	Case No. & Date	R.C.C. No. 300100/2009 Date: 10/02/2009
	FIR No. & Police Station	274/2008 Police Station Chandrapur City
	Section Invoked	Section 324 R/w 34 of IPC
	Status(Pending/Acquittal/Convicted)	Acquittal
2.	Case No. and Date	Session Case No. 26/2018 Date: 06/03/2018
	FIR No. and Police Station	143/2014 Ramnagar Chandrapur Police Station,
	Section Invoked	Section 326, 325, 504, 506 R/w 34 of IPC
	Status (Pending/Acquittal/Convicted)	Acquittal

3.	Case No. and Date	RCC.No.300176/2011 Dt-16/05/2011
	FIR No. and Police Station	43/2011 Chandrapur City
	Section Invoked	Section 324 of IPC
	Status (Pending/Acquittal /Convicted)	Acquittal
4.	Case No. and Date	Session Case No. 50/2017 Dt-02/06/2017
	FIR No. and Police Station	315/2017 Ramnagar Police Station Chandrapur
	Section Invoked	Section 395, 397, 353, 333, 506, 363, 341 of IPC and section 7 of Indian Criminal Law
	Status (Pending/Acquittal /Convicted)	Pending
5.	Case No. and Date	Session case 64/2020 Dt-02/07/2020
	FIR No. and Police Station	417/2020 Ramnagar Police Station, Chandrapur
	Section Invoked	Section 307, 504,506 r/w 34
	Status (Pending/Acquittal /Convicted)	Pending
6.	Case No. and Date	RCC No. 299/2021 dt- 20/02/2021
	FIR No. and Police Station	971/2020 Ramnagar Police Station, Chandrapur
	Section Invoked	Section 363,324,143,147,148,149 IPC
	Status (Pending/Acquittal /Convicted)	Pending
7.	Case No. and Date	SCC No. 1423/2016 dt- 27/04/2016
	FIR No. and Police Station	142/2016, Ramnagar Police Station, Chandrapur
	Section Invoked	Section 294,506, 323 r/w34 IPC
	Status (Pending/Acquittal /Convicted)	Pending
8.	Case No. and Date	Spl. Case No. 29/2024 dt- 21/02/2024
	FIR No. and Police Station	360/2024 Gondpipri Police Station,Chandrapur
	Section Invoked	Section 307,326,325,341,143,147,149,504,506 IPC
	Status (Pending/Acquittal /Convicted)	Acquittal
9.	Case No. and	SCC No 4271/2024 dt- 17/10/2024

	Date	
	FIR No. and Police Station	1314/2023 Ramnagar Police Station Chandrapur
	Section Invoked	Section 294,323,506,r/w 34
	Status (Pending/Acquittal /Convicted)	Pending
10.	Case No. and Date	RCC No. 267/2024 dt- 03/04/2024
	FIR No. and Police Station	1315/2023 Ramnagar Police Station, Chandrapur
	Section Invoked	Section 353,332,143,145,147,149 IPC
	Status (Pending/Acquittal /Convicted)	Pending

6. I have considered the rival submissions and perused the record. It is not disputed that the applicant is behind the bars since 26.01.2024 and till today the charges are not framed. However, while balancing the right of the accused it is also necessary to see other parameters including criminal antecedents as it is well recognized that bail granted without due application of mind to relevant factors such as the conduct and antecedents of the accused is arbitrary. The aforesaid chart of criminal antecedents shows that the applicant is involved in various bodily offences including attempt to murder, kidnapping, grievous hurt, dacoity, etc., which are serious in nature. The right guaranteed under Article 21 of the Constitution of India is not an absolute right. When the applicant is a history sheeter having serious criminal antecedents then in such circumstances Article 21 would not come to the rescue of such accused. Although personal liberty is a cherished constitutional value, it is not absolute. Liberty must give way when it threatens the collective interests of society. No individual can assert a freedom that imperils the life or liberty of others.

7. The Supreme Court has considered the situation where the High Court had granted bail on the ground of delay in trial amongst others however had ignored criminal antecedents of the applicant therein in the case of *State of Karnataka v. Sri Darshan*, 2025 SCC OnLine SC 1702. The Supreme Court has in the aforesaid case cancelled the bail granted by the High Court, paragraph nos. 18.7, 20.5.4 and 23.9 are relevant which reads as under:

18.7. In *Neeru Yadav v. State of UP*, this court annulled a bail order where the High Court had ignored the criminal antecedents of the accused and relied mechanically on parity. It held that consideration of irrelevant factors and omission of relevant considerations renders the order perverse. As the court noted:

“15. It is clear as a cloudless sky that the High Court has totally ignored the criminal antecedents of the accused. What has weighed with the High Court is the doctrine of parity. A history-sheeter involved in the nature of crimes which we have reproduced hereinabove, are not minor offences so that he is not to be retained in custody, but the crimes are of heinous nature and such crimes, by no stretch of imagination, can be regarded as jejune. Such cases do create a thunder and lightning having the effect potentiality of torrential rain in an analytical mind. The law expects the judiciary to be alert while admitting these kind of accused persons to be at large and, therefore, the emphasis is on exercise of discretion judiciously and not in a whimsical manner.”

It further clarified:

18. Before parting with the case, we may repeat with profit that it is not an appeal for cancellation of bail as the cancellation is not sought because of supervening circumstances.

The annulment of the order passed by the High Court is sought as many relevant factors have not been taken into consideration which includes the criminal antecedents of the accused and that makes the order a deviant one. Therefore, the inevitable result is the lancing of the impugned order.”

20.5.4. In *Ash Mohammad v. Shiv Raj Singh @ Lalla Bahu*, the Court reiterated that the period of custody, while relevant, must be weighted against the totality of circumstances, including the nature of the crime and criminal antecedents. It was held that:

“31. Be it noted, a stage has come that in certain States abduction and kidnapping have been regarded as heroism. A particular crime changes its colour with efflux of time. The concept of crime in the contextual sense of kidnapping has really undergone a sea change and has really shattered the spine of the orderly society. It is almost nauseating to read almost every day about the criminal activities relating to kidnapping and particularly by people who call themselves experts in the said nature of crime.

32. We may usefully state that when the citizens are scared to lead a peaceful life and this kind of offences usher in an impediment in establishment of orderly society, the duty of the court becomes more pronounced and the burden is heavy. There should have been proper analysis of the criminal antecedents. Needless to say, imposition of conditions is subsequent to the order admitting an accused to bail. The question should be posed whether the accused deserves to be enlarged on bail or not and only thereafter issue of imposing conditions would arise. We do not deny for a moment that period of custody is a relevant factor but simultaneously the totality of circumstances and the criminal antecedents are also to be weighed. They are to be weighed in the scale of collective cry and desire. The societal concern has to be kept in view in juxtaposition of individual liberty. Regard being

had to the said parameter we are inclined to think that the social concern in the case at hand deserves to be given priority over lifting the restriction of liberty of the accused.

33. In the present context the period of custody of seven months, in our considered opinion, melts into insignificance. We repeat at the cost of repetition that granting of bail is a matter of discretion for the High Court and this Court is slow to interfere with such orders. But regard being had to the antecedents of the accused which is also a factor to be taken into consideration as per the pronouncements of this Court and the nature of the crime committed and the confinement of the victim for eight days, we are disposed to interfere with the order impugned.

34. We may note with profit that it is not an appeal for cancellation of bail as cancellation is not sought because of supervening circumstances. The present one is basically an appeal challenging grant of bail where the High Court has failed to take into consideration the relevant material factors which make the order perverse.” Accordingly, the bail order was set aside and the accused was directed to surrender.

23.9. Accordingly, A2's antecedents, influence, jail misconduct, and the seriousness of the charges against him make him unfit for bail, and the order granting bail to him, is based on non-application of mind, perverse, and hence, legally unsustainable.

8. Further, The Supreme Court has recently in the case of *Rajni v. State of Punjab, 2026 SCC OnLine SC 1050* has denied bail on the ground of delay in trial by observing that while the period of incarceration and delay in trial are undoubtedly relevant considerations, they cannot serve as the sole or determinative basis for

the grant of bail in a case involving the alleged killing of a person. Criminal antecedents are not merely a matter of record, but bear directly on whether an accused is likely to abide by bail conditions, refrain from repeating offences, or desist from intimidating witnesses. Where an accused carries multiple antecedents for offences as grave as those under Sections 302 and 307 of the IPC, such antecedents must weigh heavily against the grant of bail.

9. So far as the reliance placed on *Abhimanue etc. (supra)* is concerned the Hon'ble Supreme Court therein has relied on the judgment in the case of *Ayub Khan v. State of Rajasthan 7 2024 SCC OnLine 3763* and has observed as under-

“23. Our attention was also invited to the status report filed by the State, to indicate the various criminal antecedents of the appellants. Suffice it to say, however, that such antecedents by themselves cannot constitute a ground for denial of bail. In this context, a useful reference may be made to the decision of a coordinate Bench of this Court in Ayub Khan v. State of Rajasthan 7 2024 SCC OnLine SC 3763 of which one of us (Augustine George Masih, J.) was a member. The relevant paragraph therefrom is extracted below:

“10. The presence of the antecedents of the accused is only one of the several considerations for deciding the prayer for bail made by him. In a given case, if the accused makes out a strong prima facie case, depending upon the fact situation and period of incarceration, the presence of antecedents may not be a ground to deny bail. There may be a case where a Court can grant bail only on the grounds of long incarceration. The presence of antecedents may not be relevant in such a case. In a given case, the Court may grant default bail. Again, the antecedents of the accused are

irrelevant in such a case. Thus, depending upon the peculiar facts, the Court can grant bail notwithstanding the existence of the antecedents. ”

In my humble opinion, the same would not be helpful to the applicant as both ***Abhimanue etc. and Ayub Khan v. State of Rajasthan (supra)*** are decided on merits and not on the ground of delay in trial.

10. Admittedly, the applicant is in jail from 2 years and 4 months, however considering the long standing criminal history of the applicant and that too his involvement in the serious offence, I am of the considered opinion that Article 21 of the Constitution of India will not come to the rescue of the applicant. Though perusal of the above chart depicts that the applicant has been acquitted in four crimes however, the fact remains that other six crimes are also serious bodily offences. Not only that time and again, the applicant was granted bail, however, he has committed the offences continuously and therefore, he has misused the liberty granted by the Court, which shows that he is not a law abiding person. I am conscious of the catena of judgments delivered by the Hon'ble Supreme Court thereby granting bail on the ground of delay in trial, however I am only rejecting this application due to serious criminal antecedents of the applicant as the applicant is a menace to the society. Hence, in this view of the matter, the application stands rejected.

(M.M. NERLIKAR, J.)