



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1101 OF 2026

PUKHRAJ RAJMAL BORA

Age: 68 years, Occu: Retired,

R/o: Flat No.----, 180 Greens,

Opposite Kamalnayan Bajaj Hospital,

Beed Bypass, Chhatrapati Sambhajanagar

...Applicant

VERSUS

1. STATE OF MAHARASHTRA
Through Police station officer,
Dhule City Police station, Dhule

2. MADHUKAR MADHAVRAO PATIL
Age: Major, Occu: Retired,
R/o: C/o Dhule City Police Station, Dhule

...Respondents

- Mr. S. S. Bora, Advocate for the Petitioner
- Mr. A. B. Girase, PP for the Respondent No.1/State

CORAM	: S. G. CHAPALGAONKAR, J
RESERVED ON	: APRIL 30, 2026
RESERVED ON	: MAY 08, 2026

JUDGMENT :

1. The present Application is filed with following prayer clauses B &

C:

b. The entire criminal proceedings in pursuance of the First Information Report dated 22.11.1993 bearing CR No.480/1993 registered with Dhule City Police Station, Dhule so also the entire charge sheet for offences punishable U/sec. 143, 147, 148, 323, 324, 332, 351, 353, 427 of Indian Penal Code and Section 68/140 Of Maharashtra Police Act, may kindly be quashed and set aside.

c. The Order of issuance of process dated 15-02-1994 passed

by the learned Judicial Magistrate First Class, Dhule in Regular Criminal Case no. 66/1994, for offences punishable U/sec. 143, 147, 148, 323, 324, 332, 351, 353, 427 of Indian Penal Code and Section 68/140 Of Maharashtra Police Act against the present applicant, may kindly be quashed and set aside.

2. The investigation was set in motion on basis of report given by Respondent No. 2 alleging that on 22.11.1993, a public protest/public condemnation was arranged on account of death of a tribal person from village Chinchkheda in pursuance to Narmada Bachao Andolan led by Smt. Medha Patkar. The police authorities intercepted procession by installing barricades. They requested protesters/ delegates to refrain from their activities, instead send a delegation to Collector for discussion. There was scuffle amongst protesters and police officers. Some of them had suffered injuries. Eventually, FIR came to be lodged against as many as 175 protesters for offences punishable under Sections 143, 144, 147, 148, 323, 324, 332, 353, 427 of Indian Penal Code & Section 60/140 of Maharashtra Police Act.

3. The Applicant is named as one of accused, being participant of public protest. In deference to registration of FIR, Applicant had approached Sessions Court vide Criminal Misc. Application No. 699 of 1993 for grant of pre-arrest bail. On 11th January 1994, application was allowed thereby extending protection as prayed. Since then, Applicant was never called by investigating machinery. No attempt was made to arrest him or he was never directed to furnish bail bond. Till year 2025, he never received summons from Court.

Recently, Applicant received information from Mr. Hemant Madane that he is implicated as one of accused in the charge sheet no. 32 of 1994, which was submitted in Court of Judicial Magistrate First Class in year 1994. The Applicant came to know that learned Magistrate has issued non-bailable warrant against him. Immediately, he approached to Court seeking cancellation of non-bailable warrant and furnished bail. On 12th January 2026, Magistrate committed case to Sessions Court at Dhule, which is registered as Sessions Case No. 30 of 2026.

4. In this backdrop applicant seeks quashment of FIR, charge sheet and proceedings in Sessions Case No. 30 of 2026, being violative of right to speedy trial recognized and guaranteed under Article 21 of the Constitution of India.

5. Mr. Bora, learned Advocate appearing for Applicant, took this Court through charge sheet and documents appended thereto and submits that although FIR is registered in year 1993 and charge sheet is submitted in year 1994, till 2025, no effective steps were taken by prosecution. After 33 long years, order of committal is passed. He would further submit that Applicant was practicing advocate at Dhule and regularly attended Court proceedings till he joined judicial services in the year 2000. He discharged his services in public domain while presiding over prestigious judicial assignments. However, till year 2025, he was never served with summons. He would further submit that for no

fault on part of Applicant, for 33 long years, criminal prosecution was kept in dormant condition. The right to speedy trial in all criminal prosecution is an inalienable right under Article 21 of Constitution of India. Such right is not restricted to actual criminal proceedings in Court, but also includes within its sweep all stages from very inception till its conclusion. He would submit that even otherwise, except statement in FIR that Applicant was one of leader of public protest, no attributions of overt-act are discernible against him either from contents of FIR or statement of witnesses. In support of his contentions, he relied upon observation of Supreme Court in case of *Abdul Rehman Antulay and Ors vs. R. S. Nayak and Ors, AIR 1992 SC 1701, Hussainara Khatoon and Ors vs. Home Secretary, State of Bihar, Patna, AIR 1979 Supreme Court 1360, Lokesh Kumar Jain vs. State of Rajasthan, (2013) 11 SCC 130* and *Robert Lalchungnunga Chongthu vs. State of Bihar, 2025 INSC 1339*.

6. Per contra, Mr. Girase, learned Public Prosecutor, submits that Applicant is named in FIR. The process is delayed because securing presence of large number of accused persons was a difficult task. The prosecution cannot be blamed for said delay. However, learned PP graciously concedes that Applicant was a practicing Advocate at Dhule. He rendered judicial services in public domain and there is no fault on his part that led to delay in criminal prosecution.

7. In light of aforesaid factual background, it is apposite to refer to certain propositions/guidelines laid down by Hon'ble Supreme Court in case of

Abdul Rehman Antulay and Ors (supra), which reads thus:

54. In view of the above discussion, the following propositions emerge, meant to serve as guidelines. We must forewarn that these propositions are not exhaustive. It is difficult to foresee all situations. Nor is it possible to lay down any hard and fast rules. These propositions are:

1. Fair, just and reasonable procedure implicit in Article 21 of the Constitution creates a right in the accused to be tried speedily. Right to speedy trial is the right of the accused. The fact that a speedy trial is also in public interest or that it serves the societal interest also, does not make it any-the-less the right of the accused. It is in the interest of all concerned that the guilt or innocence of the accused is determined as quickly as possible in the circumstances.

2. Right to Speedy Trial flowing from Article 21 encompasses all the stages, namely the stage of investigation, inquiry, trial, appeal, revision and retrial. That is how, this Court has understood this right and there is no reason to take a restricted view.

3. The concerns underlying the Right to speedy trial from the point of view of the accused are:

(a) the period of remand and pre-conviction detention should be as short as possible. In other words, the accused should not be subjected to unnecessary or unduly long incarceration prior to his conviction;

(b) the worry, anxiety, expense and disturbance to his vocation and peace, resulting from an unduly prolonged investigation, inquiry or trial should be minimal; and

(c) undue delay may well result in impairment of the ability of the accused to defend himself, whether on account of death, disappearance or non-availability of witnesses or otherwise.

It can be gathered from aforesaid guidelines that Article 21 of Constitution of India not only creates right in accused to be tried speedily, but

such right subserves public and societal interest. The Article 21 encompasses all stages of investigation, inquiry, trial and not restricted to trial before Court. The Court observes that delay results into worry, anxiety, expense and disturbance to vocation and even peace. It results impairing of ability to defend himself. The aforesaid exposition of law has been reiterated by Supreme Court of India in numerous cases. In case of *Vakil Prasad Singh Vs. State of Bihar, (2009) 3 SCC 355*, the Hon'ble Supreme Court observed in paragraph 24 as under:

24. It is, therefore, well settled that the right to speedy trial in all criminal persecutions (sic prosecutions) is an inalienable right under Article 21 of the Constitution. This right is applicable not only to the actual proceedings in court but also includes within its sweep the preceding police investigations as well. The right to speedy trial extends equally to all criminal prosecutions and is not confined to any particular category of cases. In every case, where the right to speedy trial is alleged to have been infringed, the court has to perform the balancing act upon taking into consideration all the attendant circumstances, enumerated above, and determine in each case whether the right to speedy trial has been denied in a given case."

8. In light of legal position that emerges from a series of judgments referred above, if prosecution against Applicant is permitted after 33 years of registration of FIR, particularly when he was a practicing Advocate at Sessions Court at Dhule and then efficiently served judiciary till he demitted office from constitutional post, it would lead to violation of fundamental rights guaranteed under Article 21 of the Constitution of India. As rightly pointed out by Mr. Bora, defending a trial after 33 long years would result in impairing the ability of Applicant-Accused to defend himself.

9. Even on factual backdrop, there appears no case against Applicant so as to permit prosecution. FIR simply states that Applicant was one of leaders in protest arranged by Narmada Bachao Andolan Association. However, participation of applicant in protest/march or any scuffle with police officer or any sort of violation of public order is not discernible from record. The charge sheet contains statement of witnesses, however, Applicant is not named for any overt-act or even participation in so-called unlawful assembly that turned violent causing injuries to police officers.

10. There is absolutely no explanation from prosecution for inordinate delay caused in taking necessary steps for speedy trial. Issue process order appears to have been passed on 15th February 1994. There is nothing to show that Applicant was served with summons at any point of time although he was regularly attending court as an advocate and then served judiciary. The committal order appears to have been passed on 12th January 2026. The police could not secure attendance of accused numbers 1 to 172 and 174 and 175. The Applicant was only accused who was present before Court when committal order was passed. There is nothing on record to demonstrate that applicant was anyway responsible or contributed to cause delay in committal of case. It is primarily for prosecution to justify and explain delay, but no satisfactory explanation is coming forward to justify inordinate delay of 33 years in taking steps for committal of case to sessions case. The applicant can not be denied fundamental right and

made to face trial at this stage because of failure of prosecuting agencies and executive to act and turning blind eye at securing expeditious and speedy trial. In this backdrop, this Court finds that this is a fit case for exercise of inherent powers to secure ends of justice coupled with constitutional right of Applicant guaranteed under Article 21.

11. In result, Criminal Application is allowed in terms of prayer clauses B & C.

(S. G. CHAPALGAONKAR, J.)

Umesh