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2026 INSC 1268

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2026
[SPECIAL LEAVE TO APPEAL (CRL.) NO. 18485 OF 2026]

PAWANKUMAR FAKIRCHAND UIKE ... APPELLANT

VS.

STATE OF MAHARASHTRA ... RESPONDENT

O R D E R

DIPANKAR DATTA, J.

1. Leave granted.

2. The High Court of Judicature at Bombay, Nagpur Bench[1], *vide* judgment and order dated 20th July 2026[2], has rejected the appellant's prayer for bail. This appeal takes exception to such rejection.

3. Appellant was arrested on 28th July 2022 in connection with FIR No. 02 of 2022 dated 28th July, 2022 registered at Police Station Repanpalli, Distt. Gadchiroli, Maharashtra under Sections 10, 13, 18, 20 and 39 of the

[1] High Court
[2] impugned order

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Unlawful Activities (Prevention) Act, 1967[3] and Section 120-B read with Section 34 of the Indian Penal Code, 1860[4], under Sections 3 and 25 of the Indian Arms Act, 1959[5] as well as under Section 135 of the Bombay Police Act, 1951.

4. Facts leading to the implication and arrest of the appellant reveal that on the night of 27th July, 2022, the informant, a sub-inspector with the Maharashtra Police, along with SRPF constables, conducted an ambush in the Naxal-affected forest area and apprehended the appellant along with two co-accused, who were found indulging in suspicious activities. Upon a search of their personal belongings, a cloth banner hailing the Naxal movement and propagating its message was seized.

5. During investigation, a disclosure statement is alleged to have been made by the appellant. We need not refer to such statement in detail at this stage. Suffice to note, acting upon the aforesaid statement, the investigating authorities claimed to have searched the appellant's home and recovered certain items implicating him. Upon recording the relevant witness statements, a chargesheet was filed against the appellant on 21st January 2023 for the offences mentioned in the FIR.

6. The case was committed on 23rd January, 2023 to the Sessions Judge, Gadchiroli, given the requirements of the extant law. Appellant was unsuccessful in obtaining bail before the Sessions Court. Notably, the co-accused apprehended alongside the appellant were released on bail by

[3] UAPA
[4] IPC
[5] Arms Act

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the High Court on 12th January, 2024. Appellant's regular bail application, preferred before the High Court on 09th February 2024, was dismissed on 20th July, 2026 *vide* the impugned order.

7. During the proceedings, the appellant was granted temporary bail from 19th October, 2024 to 23rd October, 2024. As per the prosecution, he surrendered to the jail authorities only on 02nd January, 2025.

8. The High Court, while rejecting the appellant's plea for liberty, reasoned that the seizures made at the behest of the appellant, as well as the witness statements evincing his involvement, demonstrate that his activities pose a threat to State sovereignty. Grounds of parity raised by the appellant did not convince the Court, since his individual role subdued such consideration. The Court further reasoned that the undue delay in the trial is attributable to him and his absence from custody between 24th October, 2024 and 2nd January, 2025. One other assigned reason was that he failed to surrender within the stipulated time.

9. Mr Siddharth Aggarwal, learned senior counsel appearing for the appellant, has argued that the appellant simply discharged his duty as a medical officer, and any involvement with members of the insurgent faction was restricted to such role. He has vehemently disputed the criminal antecedents against the appellant on the ground that they have stemmed from an FIR under Section 302, IPC registered against unknown persons, and is intended to hinder favourable consideration of his bail applications. Mr Aggarwal has further sought to impress upon the non-applicability of Section 39 of the UAPA against the appellant as well as the gross delay in

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the outcome, in the absence of any possibility of conclusion of the trial in the near future. Also, referring to the custody certificate, he has disputed the factual aspect of the appellant's alleged late surrender upon grant of temporary bail, maintaining that his surrender was within the stipulated time, which the High Court overlooked much to his prejudice and detriment. Parity is finally sought with the co-accused who were released on bail by the High Court in 2024.

10. Mr Siddarth Dharmadhikari, learned counsel appearing for the State, has vehemently opposed the appellant's release, citing criminal antecedents, his primary role in the offence, his late surrender, likelihood of tampering with evidence and influencing witnesses, as well as the gravity and seriousness of the offences alleged against him.

11. The rival contentions of the parties have been considered and the materials on record perused.

12. We may not delve deep into the merits of the allegations against the appellant, as the present adjudication is limited to his prayer for release on bail mainly on the ground of delay in conclusion of trial and the High Court's patent error in believing that he did not surrender within the stipulated time.

13. What is necessary for a decision is, whether the appellant can be released on regular bail despite the statutory restrictions imposed on grant of bail under Section 43D(5) of the UAPA. The law regarding situations when the bar imposed under the UAPA on grant of bail becomes applicable, is well settled. The test laid down brings such embargo into operation when

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a perusal of the material collected against the accused leads the Court to believe the allegations to be *prima facie* true.

14. This Court, in furtherance of this embargo, has held that it does not do away with a Constitutional Court's discretionary power to grant bail on grounds of violation of fundamental rights, particularly in cases where there is an undue delay in completion of the trial. In ***Union of India v. K.A. Najeeb***[6], it was held that the Court can exercise such power in cases of unreasonably long periods of custody.

15. Appellant is incarcerated for a period of more than four years. Charges have been framed a week prior to the impugned order. Therein, the High Court has recorded that the delay in the progress of the trial can partially be attributed to the appellant, who did not surrender within the requisite time. However, what perplexes us is the fact that even though the appellant had surrendered on 2nd January, 2025, as per the counter affidavit filed by the State, why it took almost 18 months to finally frame the charges on 13th July 2026 has not been explained.

16. Thus, the logical question that demands an answer at this stage is, whether any fault can be attributed to the appellant for the hindrance of the trial, considering that the case was committed in 2023 itself, and it took more than three years to frame the charges.

17. It does appear that the High Court was particularly influenced by the appellant's belated surrender. However, a scrutiny of the custody certificate issued by the Nagpur Central Prison, which is part of the records, reveals

[6] 2021 3 SCC 713

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that the appellant has been in custody since the time of his arrest and he did surrender to custody on 24th October, 2025, after the period of temporary bail, in adherence to the terms of the order granting it and did not abscond for two and half months as the impugned order would suggest. The High Court was, thus, grossly in error.

18. It also does appear that none of the 39 witnesses named in the chargesheet, whose versions are proposed to be recorded to support the prosecution case, have been examined yet.

19. Additionally, we take note of the fact that the appellant is a doctor by profession and was in public employment at the time of the incident; therefore, his involvement with the rebel factions, if at all, being in discharge of his Hippocratic oath, cannot wholly be ruled out.

20. In the above conspectus of facts and circumstances, we find the appellant having set up a strong case for bail on account of the period already served in custody, the stage of the trial as well as the considerable period remaining before the culmination of trial. Additionally, the co-accused, apprehended alongside the appellant, have already been released on bail more than two years back. For the aforesaid reasons, we are of the opinion that the present appeal deserves to be allowed.

21. Appellant is, therefore, directed to be released on bail in connection with the present FIR, subject to furnishing bail bonds to the satisfaction of the trial court and also subject to any other terms and conditions it may deem fit to impose.

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22. Appellant shall diligently attend the trial court proceedings. Should the trial court find that the appellant is involved in any transgression of the conditions imposed upon him, or tampering with any relevant evidence or witnesses, the trial court is empowered to cancel his bail and take any other action(s) as it may deem fit.

23. Observations made in this order are for the purpose of deciding the prayer for bail and may not impact the trial, which may be continued and concluded in accordance with law.

24. The Sessions Court is encouraged to expedite his decision.

25. Pending application(s), if any, shall also stand disposed of.

.....J.
(DIPANKAR DATTA)

.....J.
(SHEEL NAGU)

New Delhi;
November 25, 2026.