IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 812 OF 2026

Shrihari Hardas Chavan .... Applicant
Versus
The State of Maharashtra .... Respondent

WITH

BAIL APPLICATION NO. 626 OF 2026

Nagesh Vikram Bhosale .... Applicant
Versus
The State of Maharashtra .... Respondent

WITH

BAIL APPLICATION NO. 818 OF 2026

Siddesh Sadish Kale .... Applicant
Versus
The State of Maharashtra .... Respondent

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Mr. Chaitanya C. Deshpande a/w Mr. Avinash M. Reddy, Advocate for Applicants in BA/812/2026 and BA/818/2026
Mr. Anil M. Gaikwad, Advocate for Applicant in BA/626/2026
Mr. K. K. Naik, APP for Respondent - State

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CORAM : HITEN S. VENEGAVKAR, J.
RESERVED ON : 21st SEPTEMBER 2026
PRONOUNCED ON : 01st OCTOBER 2026

ORDER :

1. These three applications seek regular bail in connection with Crime No.63 of 2025 registered with Parner Police Station, District Ahilyanagar, for the offences punishable under Sections 309(6), 310(2), 324(4) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 3(1)(ii), 3(2) and 3(4) of the Maharashtra

Control of Organised Crime Act, 1999 (for short, "the MCOC Act"). Since the applications arise out of the same crime and raise common questions concerning the effect of the earlier orders of bail and the subsequent addition of the offences under the MCOC Act, they are being decided by this common order.

2. The prosecution states that, during the night intervening 24th and 25th January, 2025, at about 2.00 a.m., four masked persons forcibly entered the house of the informant, Yogesh Khandu Sherkar, at Pathar Vasti, Sobalewadi, Taluka Parner. They were allegedly armed with a wooden stick and an iron rod. The inmates were threatened and assaulted. Gold ornaments worn by the informant's mother and grandmother were forcibly removed. Cash and other articles were taken away and the prosecution values the property at about Rs.2,75,000/-. The mobile handset of the informant was damaged and the offenders allegedly left the place with his TVS Star City motorcycle bearing registration No.MH-16-CZ-6818. The FIR was lodged on 25th January, 2025 against four unknown persons.

3. The prosecution further states that the applicants and the other accused were identified during investigation as persons concerned with the occurrence. The first charge-sheet for the offences under the BNS was filed on 6th May, 2025. The

investigating agency thereafter placed a proposal for invoking the MCOC Act. Prior approval under Section 23(1)(a) of that Act was granted by the Special Inspector General of Police, Nashik Range, under Order No.998 of 2025 dated 7th June, 2025. The sanctioning authority subsequently granted sanction under Section 23(2) on 12th September, 2025. A further charge-sheet incorporating the offences under the MCOC Act was thereafter filed.

4. Before the offences under the MCOC Act were added, the applicants had applied for bail in respect of the offences under the BNS. The applications were allowed on 9th June, 2025. The applicants, however, had not been physically released from jail because the bail formalities had not been completed and, in the case of some applicants, custody in another crime was also stated to be operating. The prosecution moved an application on 12th June, 2025 seeking their custody in the newly added offences. The learned Court permitted the request on 13th June, 2025 and the applicants were produced from jail and taken in custody on 17th June, 2025. Their applications for bail after the addition of the MCOC Act came to be rejected by the Special Court. They have therefore approached this Court.

5. Learned Advocate for the applicants submits that the FIR was lodged against unknown persons and none of the

applicants was named in it. He submits that though the informant is stated to have identified one or more applicants, the other identifying witnesses did not support such identification. According to him, there is no reliable recovery at the instance of the applicants and the investigation is now complete. He submits that the applicants were granted bail by the Sessions Court after the charge-sheet for the original offences had been filed. The prosecution did not challenge those orders and therefore the merits of the original occurrence cannot now be reopened under the guise of considering bail for the MCOC Act offences.

6. Learned Advocate for the applicants further submits that the applicants stood released in law immediately upon the orders of bail being passed on 9th June, 2025, even though they remained in jail for completing the bail formalities or because of custody in another case. Consequently, they could not have been arrested or detained for the subsequently added offences without cancellation of the earlier bail, a fresh arrest, communication of the grounds of arrest and a reasoned order of the Court which had granted bail. He submits that merely obtaining the applicants' production from jail could not amount to lawful arrest under the MCOC Act.

7. Learned Advocate also questions the very application of the MCOC Act. He submits that most of the earlier crimes were initially registered against unknown persons and that the applicants were subsequently shown as accused merely because they belong to the Pardhi community. He argues that the nature of some previous offences, including allegations of petty theft, does not demonstrate an organised crime syndicate or continuing unlawful activity undertaken for pecuniary gain. He submits that the sanctioning authority did not independently examine this aspect. Reliance is also placed on the order dated 20th January, 2026 passed in Bail Application No.2514 of 2025 granting bail to co-accused Ganesh Suresh Bhosale. It is submitted that the applicants are similarly placed and are entitled to parity. Lastly, it is submitted that the applicants have undergone incarceration for about one year and seven months, the charge has not been framed and the trial is unlikely to conclude shortly.

8. Learned APP opposes the applications. He submits that the material collected during investigation prima facie shows that the applicants acted as members of an organised crime syndicate which repeatedly committed offences against persons and property for pecuniary gain. The antecedent chart shows several charge-sheets for offences punishable with imprisonment of three years or

more, of which cognizance was taken within the preceding ten years. He submits that the applicants were subjected to a test identification parade and were identified. The informant's motorcycle was recovered during investigation; the fingerprints of co-accused Ganesh Bhosale were found on the damaged mobile handset; and the robbed ornaments were disposed of through another co-accused. According to the learned APP, these circumstances have to be read together and not in isolation.

9. Learned APP further submits that there was no unilateral re-arrest by the police. An application seeking custody was filed on 12th June, 2025; permission was granted by the competent Court on 13th June, 2025; and only thereafter were the applicants produced from jail and taken into custody on 17th June, 2025. He submits that the law does not require the empty formality of first releasing a person from the prison gate and immediately arresting him again when he is already in lawful custody and the Court has authorised his custody for the newly added offences. As regards parity, he submits that the order granting bail to Ganesh Bhosale proceeded on the assumption that Siddhesh Kale had already been released on bail on the same footing. Siddhesh's earlier bail, however, concerned only the offences under the BNS and his later bail application under the

MCOC Act was rejected. The State has therefore sought cancellation of the bail granted to Ganesh. The learned APP submits that, having regard to the criminal antecedents and the statutory restrictions under Section 21(4), the applicants are not entitled to bail.

10. The rival submissions give rise to three connected questions. The first is whether, after bail had been granted for the original offences but before the applicants were physically released, the investigating agency could take them into custody for the subsequently added MCOC Act offences without a fresh judicial order. The second is whether the grant of bail in the original offences prevents this Court from examining the facts of the occurrence while deciding bail under the MCOC Act. The third is whether the material placed by the prosecution satisfies the Court that the applicants can be released consistently with Section 21(4) of the MCOC Act.

11. The legal position governing addition of graver cognizable and non-bailable offences after grant of bail is settled by the Supreme Court in ***Pradeep Ram v. State of Jharkhand***, ***(2019) 17 SCC 326***. The Supreme Court recognised four permissible courses. The accused may surrender and seek bail for the added

offences. The investigating agency may seek an order for arrest and custody by invoking the powers then contained in Sections 437(5) or 439(2) of the Code of Criminal Procedure. Corresponding powers are now found in Sections 480(5) and 483(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023. The Court may direct the accused to be arrested and committed to custody, with or without formal cancellation of the earlier bail depending upon the facts. What is impermissible is a unilateral arrest by the investigating agency for the added offences without obtaining an order from the Court which had granted bail. These principles have recently been reiterated in ***Sumit v. State of Uttar Pradesh and another***, ***AIR 2026 SC 905***.

12. The grant of bail and physical release from prison are related but distinct events. An order granting bail removes the authority to detain the accused in that case once its conditions are fulfilled. It does not, however, wipe out lawful custody in another case, nor does it extend by implication to a serious non-bailable offence subsequently added to the same crime. At the same time, the police cannot take advantage of the accused being physically present in jail and treat that circumstance as a substitute for judicial permission. What the law insists upon is judicial scrutiny before the liberty granted by the earlier bail order is curtailed on

account of the added offence. Once such judicial permission is obtained, the law does not require a meaningless exercise of releasing the accused from one gate of the prison and arresting him again at the same place.

13. In the present case, the chronology recorded before the Court shows that, after the orders of bail dated 9 June 2025, the prosecution applied for custody on 12th June, 2025. The application was allowed on 13th June, 2025. The applicants were thereafter produced from jail and their custody was taken on 17th June, 2025. Thus, the investigating agency did not act solely on its own authority. Judicial permission intervened before custody was taken for the added offences. In these circumstances, a separate physical release and re-arrest was not necessary. Nor was cancellation of the earlier bail an invariable precondition, since the earlier bail continues to govern the original offences while the entitlement to bail for the added MCOC Act offences has to be decided afresh. The first submission of the applicants therefore cannot be accepted.

14. The second submission also requires a distinction. The orders dated 9th June, 2025 granting bail for the original offences have neither been cancelled nor set aside. This Court is not sitting

in appeal over those orders and cannot reconsider the same material merely to reach a different conclusion on bail for the BNS offences. Nevertheless, the occurrence of 25th January, 2025 is alleged by the prosecution to be the organised crime committed by the syndicate. The evidence connecting each applicant with that occurrence is therefore directly relevant when the Court examines whether the ingredients of Sections 3(1)(ii), 3(2) and 3(4) of the MCOC Act are prima facie disclosed. Consideration of that material for this limited statutory purpose does not amount to reviewing or cancelling the earlier orders of bail.

15. Section 21(4) of the MCOC Act imposes restrictions in addition to the ordinary considerations governing bail. Once the Public Prosecutor opposes the application, the Court must be satisfied that there are reasonable grounds for believing that the accused is not guilty of the alleged offence and that he is not likely to commit an offence while on bail. In ***Ranjitsing Brahmajeetsing Sharma v. State of Maharashtra*, *(2005) 5 SCC 294***, the Supreme Court explained that the Court is not required to record a finding of acquittal at the stage of bail. The material has to be examined on broad probabilities to determine whether the accusation, so far as the particular accused is concerned, is inherently improbable. At the same time, the twin conditions cannot be diluted or omitted

from consideration. This requirement has again been emphasised in ***Jayshree Kanabar v. State of Maharashtra*, *(2025) 2 SCC 797.***

16. It is equally settled that, for establishing continuing unlawful activity, the earlier charge-sheets need not all be against every individual who is subsequently shown to be a member of the syndicate. The relevant inquiry is whether more than one qualifying charge-sheet concerning the activity of the organised crime syndicate was filed within the preceding ten years and cognizance was taken, and whether there is prima facie material connecting the particular accused with that syndicate or with an offence committed on its behalf. This position follows from ***Zakir Abdul Mirajkar v. State of Maharashtra*, *(2023) 20 SCC 408***. Therefore, the mere circumstance that several FIRs were initially registered against unknown persons does not make the subsequent charge-sheets irrelevant. Equally, registration of numerous FIRs by itself cannot replace proof of qualifying charge-sheets, cognizance and nexus with the syndicate.

17. The papers placed before the Court include the approval and sanction orders referring to the previous charge-sheets and recording that the offences were committed, singly or jointly, by members of the alleged syndicate for unlawful pecuniary gain. The

prosecution also relies on the antecedent chart and on the circumstance that several accused figure together in more than one prosecution. At this stage, the Court is not examining the ultimate validity of the sanction or deciding whether every previous accusation will result in conviction. The material is, however, sufficient to prevent the Court from recording that the allegation of continuing unlawful activity by a syndicate is inherently improbable.

18. As regards the present occurrence, the FIR was admittedly against unknown persons. That circumstance requires careful scrutiny of the subsequent identification, but it does not by itself render the identification unacceptable. The prosecution relies on the test identification parade and on the witnesses who identified the accused. The applicants point out that all witnesses did not identify every applicant. That is a matter affecting the weight of the evidence and will have to be tested at trial. The papers also disclose a dispute as to whether recovery of the informant's motorcycle is attributable to Siddhesh Kale or Shrihari Chavan. No final finding on that recovery can be recorded in these proceedings. Similarly, the fingerprint allegedly found on the informant's damaged mobile handset is attributed to co-accused Ganesh Bhosale and cannot be treated as incriminating material

personally recovered from any of the present applicants. Even after excluding that circumstance from their individual assessment, the identification material, the prosecution's case regarding their association with the other accused and the antecedent material cannot be said to be so deficient that reasonable grounds exist for believing that the applicants are not guilty of the MCOC Act offences.

19. The submission that the applicants were implicated because they belong to the Pardhi community has been considered. A person's caste, tribe or community can never constitute incriminating material and no adverse inference can be drawn from it. The prosecution must stand or fall only on legally admissible evidence. In the present case, however, the allegation of discriminatory implication is not, at this stage, supported by material sufficient to displace the identification, the charge-sheets and the alleged inter se association relied upon by the prosecution. The applicants will be at liberty to establish that defence during trial, when the witnesses and the investigating officers can be tested by cross-examination.

20. The order dated 20th January, 2026 granting bail to Ganesh Suresh Bhosale has also been considered. Parity is a

relevant consideration, but it is not an abstract or mechanical formula. The said order relied substantially on the circumstance that Siddhesh Kale had been granted bail by the Sessions Court. The order granting bail to Siddhesh was passed before the MCOC Act was invoked and did not decide his entitlement under Section 21(4). Indeed, his subsequent application under the MCOC Act was rejected. The factual foundation on which parity was extended to Ganesh is therefore not available in the present applications. Moreover, the antecedents and the material connecting every accused with the alleged syndicate require individual examination. The order in Ganesh's case consequently does not, by itself, satisfy the twin conditions in favour of these applicants.

21. The applicants have remained in custody for a considerable period, the investigation is complete and the charge has not yet been framed. These circumstances weigh in favour of an early trial. However, the custody undergone till now, when viewed against the nature of the accusation and the material presently available, is not by itself sufficient to override Section 21(4). Upon an overall consideration, this Court is unable to record reasonable grounds for believing that the applicants are not guilty of the alleged offences under the MCOC Act. In view of the antecedent material relied upon by the prosecution, the Court is

also unable to record the further satisfaction that they are not likely to commit an offence while on bail. The statutory conditions are therefore not fulfilled.

22. These observations are only for deciding the present applications. The trial Court shall evaluate the evidence independently and shall not treat any prima facie observation in this order as a concluded finding. At the same time, continued detention cannot be allowed to become a substitute for trial. Having regard to the period already undergone and the number of accused and witnesses, the Special Court must give due priority to the proceeding. 23. Hence, the following order:

ORDER

(i) Bail Application Nos.626 of 2026, 812 of 2026 and 818 of 2026 are rejected.

(ii) The learned Special Judge shall endeavour to frame the charge as expeditiously as possible and preferably within four weeks from receipt of this order, unless prevented by any legal impediment attributable to the accused.

(iii) The trial shall thereafter be taken up on priority and an endeavour shall be made to conclude it within one year. The prosecution and all the accused shall cooperate and shall not seek unnecessary adjournments.

(iv) If the trial does not make substantial progress within the aforesaid period for reasons not attributable to the applicants, it shall be open to them to apply afresh for bail on the ground of prolonged incarceration and delay. Such applications shall be decided on their own merits and in accordance with the legal position then prevailing.

(v) All observations made in this order are prima facie and confined to the decision of these bail applications.

(HITEN S. VENEGAVKAR)
JUDGE

Tandale