

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 1273 OF 2026

Nikhil Nitin Jagtap	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Sudeep Pasbola, Senior Advocate a/w. Mr. Chinmay Godse and Mr. Ranjan Gurnani i/b. Mr. Kishan Chaudhari, for the Applicant.
Dr. Dhanlakshmi Krishnaiyer, APP, for the Respondent- State.

VISHAL
SUBHASH
PAREKAR

Digitally signed by
VISHAL SUBHASH
PAREKAR
Date: 2026.10.01
17:44:34 +0530

CORAM : SHREERAM V. SHIRSAT, J.

DATE : 1st OCTOBER, 2026

P.C.

1. The Applicant, who is arraigned as accused No. 4 in C.R. No. 20 of 2022 registered with Lonikand Police Station for the offences punishable under Sections 302, 307, 341, 143, 147, 148, 149, 427, 120-B, 201 of the Indian Penal Code (IPC); Sections 3 and 7 of the Criminal Law Amendment Act; Sections 3(25), 4(25) of the Arms Act; Sections 37(1), 37(3) read with Section 135 of the Maharashtra Police Act; and Sections 3(1)(i), 3(2), 3(3), 3(4) of the MCOC Act, has preferred this application to enlarge him on bail.

2. It is the case of the prosecution that the original complainant, namely Minal Sachin Shinde, lodged an FIR with Lonikand Police Station, Pune and stated that her husband Sachin

Shinde and brother-in-law Harshal Shinde are in jail in connection with the murder of one Sachin Nanasaheb Shinde. It is further the case that on 12.01.2022 at 11:00 a.m., the complainant along with the driver Dnyaneshwar Gyanba Chavan, Kumar Maruti Shinde and Prathamesh alias Sunny Kumar Shinde had gone to the Shivajinagar Court in the Maruti Swift vehicle for the hearing of the bail application of the complainant's husband. It is further the case that after the court work was over, at around 6:00 p.m. to 6:30 p.m., while returning home at Zilla Parishad Primary School's back road, one yellow-coloured dumper was standing and at that time, one black Safari car came there and was placed horizontally in front of their car.

3. It is further the case that at that time, some persons got down from the said car, namely Nikhil Patil, Rugved Walke, Rutik Kinkar, the present applicant, Ketan alias Mauli Kolte, Abhishek Ghavane, Shubham Wabale, Pratik Khande and four to five other unknown persons. It is the case that Nikhil Patil had a pistol in his hand and Rugved Walke, Rutik Kinkar and Abhishek Ghavane had iron sickles in their hands, while others were carrying wooden sticks in their hands. It is further the case that they all surrounded the said car and tried to open it. Further, they

smashed the glass of the said car with the sickle and wooden sticks in their hands and opened the car door. It is further the case of the prosecution that at that time, Nikhil Patil came near the said car and said that they have killed his brother Sachin and that he will also kill them. It is further the case that the complainant was pulled out of the car and thereafter Nikhil Patil and his accomplices attacked Sunny Shinde with a sickle and pulled him out of the car. It is further the case that Pratik Khande gave a sickle into the hands of Nikhil Patil and other persons attacked Kumar Shinde with a sickle and dragged him out of the car and brought him behind the car near Sunny and they all began to beat him with iron sickles and wooden sticks. It is further the case that upon seeing this, the driver and the complainant went to rescue them. It is further the case of the complainant that one Ketan assaulted the complainant with an iron sickle on her right hand and at that point of time, she fell down. It is further the case that the present applicant hit the driver who panicked and ran away. It is further the case that thereafter Nikhil Patil, Rugved Walke, Rutik Kinkar, Mauli Kolte, Pratik Khande, and Shubham Wabale picked up big stones lying on the road and threw them onto the heads of Sunny Shinde and Kumar Shinde; after that, the

complainant ran away from the spot and went to Lonikand Police Station and informed the police about the incident.

4. It is further the case that on the basis of the complaint lodged by the complainant, offences vide C.R. No. 20 of 2022 were registered with Lonikand Police Station. Thereafter, investigation was triggered, and the applicant came to be arrested on 15.01.2022.

5. During the course of investigation, statements of witnesses were recorded, CCTV footages were collected, recoveries were effected etc. Further during the course of investigation, it was further revealed that there was sufficient evidence to prove continuous unlawful activities of the organized crime syndicate headed by Nikhil Patil, the gang leader, and more than one charge-sheet in respect of cognizable cases having punishment of three years or more has been filed against the gang leader before the competent courts within the preceding ten years and the competent courts have taken cognizance of the said charge-sheets. It is further the case that after completion of the investigation, the Investigating Officer submitted his report to the competent authority, i.e , the Additional Director General of Police and Commissioner of Police, Pune City, inter alia requesting therein to

accord sanction for prosecution of 24 accused persons, including the wanted accused who is the gang leader, namely Nikhil Devanand Patil, for the offences punishable under the MCOC Act. It is further the case that on 26th April 2022, the Additional Director General of Police and Commissioner of Police, Pune City, was pleased to grant sanction under Section 23(2) of the MCOC Act. It is further the case that after obtaining the necessary permission for sanction of prosecution from the competent authority, the charge-sheet was filed against the accused persons before the Special Court under the MCOC Act, Shivajinagar, Pune, on 10.05.2022 and it was numbered as Special Case No. 328 of 2022. It is further the case that a supplementary charge-sheet was also submitted before the Special Court under the MCOCA Act, Shivajinagar, Pune, on 06.10.2022.

6. The learned Senior Counsel Shri. Pasbola, appearing for the applicant submitted that in the present C.R. No. 20 of 2022, out of 24 accused, 12 accused have been granted bail. He further submitted that the two co-accused who have been released on bail had actually assaulted the deceased with weapons and despite such being the accusation and the role, the Court has been pleased to release the accused on bail. The learned counsel further

submitted that on the point of conspiracy, the statements of witnesses have been recorded after 48 days of the alleged incident. He further submitted that although the applicant was named by the complainant as the one who assaulted the driver Dnyaneshwar Chavan, however, Dnyaneshwar Chavan in his statement has not even whispered about the role of the present applicant. The learned counsel further submitted that there are no criminal antecedents against the present applicant, whereas the co-accused persons with a graver role, who had criminal antecedents, have been released on bail by the Trial Court and the same has not been challenged by the State. He further submitted that there is nothing to show that the Applicant is a part of the organised crime syndicate. He further submitted that the applicant is in custody for more than four years, and till date only charge has been framed and that there are around more than 80 witnesses cited by the prosecution, which will take a considerably long time for the trial to conclude; hence, he prayed that the applicant be released on bail.

7. *Per contra*, the Ld. APP submitted that the offence is serious and it is a case of conspiracy where the applicant and other co-accused have brutally committed the murder of two persons. She

submitted that the applicant has been specifically named in the FIR as well as in the statement recorded under Section 164 of the Cr.P.C (Section 183 of BNSS). She submitted that the applicant is a part of an organized crime syndicate and is closely associated with Nikhil Patil, who is the gang leader and who is absconding since the date of the offence. She submitted that the CCTV footage obtained from the house of Nanasaheb Shinde, who is accused No. 1, shows that the applicant, along with other accused, were moving in a suspicious manner two days before the incident as well as on the date of the incident. The Ld. APP further submitted that considering the gravity and seriousness of the offence, the provisions of the MCOCA Act have been invoked and the sanction has been granted under MCOCA, taking into consideration the gravity of the offence and the activities of the organised crime syndicate.

8. I have considered the rival submissions.

9. The complainant has named the applicant in the statement under Section 161 Cr.PC (Section 180 of BNSS), by stating that the driver was assaulted by the present applicant with something, because of which he got scared and ran away. In her statement recorded under section 164 of Cr.PC (Section 183 of BNSS), she

has improved her version and stated that the present applicant assaulted the driver with a sickle on the face. However, the statement of the driver was also recorded; who has not even whispered about the applicant having assaulted him. On the contrary, he states that one person amongst them assaulted him by means of a wooden rod. The prosecution has not even conducted a Test Identification (TI) parade to establish the identity of the assailant. Further, accused Shubham Waghale, who was named in the FIR as well as in the 164 statement as the person who assaulted, has been released on bail by the Trial Court even though there were criminal antecedents against him, which order has not been challenged.

10. Much emphasis was laid by the Ld. APP on the fact that the applicant was seen in the CCTV footage along with other accused, suspiciously moving on a bike. The Ld. APP therefore submitted that he was involved in a conspiracy along with the absconding accused Nikhil Patil, who is the kingpin of the syndicate. I have gone through the CCTV footage panchnama dated 15.01.2022, which is with respect to the footage of 12.01.2022 and the CCTV footage panchnama dated 20.01.2022, which is with respect to the footage of 10.01.2022. In the CCTV footage panchnama dated

10.01.2022, the applicant is shown to be having some conversation with the other accused. In the CCTV footage dated 12.01.2022, the applicant is shown to be arriving on his bike at 15:38 hours and leaving at 15:39 hours, i.e, within one minute. The other accused Abhishek Lange, Atharva Khand, whose names are also mentioned in the CCTV footage panchnama, have been released on bail by the Special Court, Pune. Even Rishikesh Argade, whose name is mentioned as being seen in the CCTV footage of 10.01.2022, has been released on bail by the High Court vide order dated 30.07.2024. Most importantly, the co-accused Abhishek Gavhane, who was also having criminal antecedents and was also named in the FIR, though not named in the 164 statement has been granted bail. The Ld. APP submitted that the present applicant is named in the FIR as well as in the statement recorded under section 164 of Cr.PC, however, a proper perusal would show that the version in the 164 statement is an improvised version and therefore prima facie, the credibility is diminished.

11. The statements of witnesses Shreyas Yashwant, Sourav Yadav, and Saurabh Kand show that they had organized cricket matches in the memory of late Sachin Shinde between 06.01.2022

to 09.01.2022 and on the fourth day of the match, accused Nikhil Patil, Sonya Bhandare, Rigved Walke, Rutik Kinikar, Rohan Thorat, Pratik Kand, Ganesh Bhalerao, Mauli Kolte, Ganesh Raut, Atharva Kand and the present applicant had come to the venue of the match and at that time, the witnesses heard the discussions amongst them that Sunny Shinde has been released on bail and that they have to take revenge of murder of Sachin Shinde. Shreyas Yashwant, although names the applicant in his statement, however, the two other witnesses, namely Sourav Yadav and Saurabh Kand, who were also present, do not name the present applicant.

12. I am conscious of the fact that a person accused of offences punishable under the MCOC Act cannot be enlarged on bail unless the court is satisfied that there are reasonable grounds for believing that the accused is not guilty of such offence and that he is not likely to commit any offence while on bail. I am also conscious of the proposition that in view of the definition of "continuing unlawful activity" under Section 2(1)(d) of the MCOC Act, it is not the requirement of law that two charge-sheets for cognizable offences punishable with imprisonment for three years or more need to be filed against each of the members of such

syndicate. It is the membership of the organized crime syndicate which makes a person liable under the MCOC Act.

13. What merits consideration is the nexus of the person with the organized crime syndicate. The fulcrum of the offence of organized crime is the nexus with the organized crime syndicate. In the present case, from the affidavit filed by the State, it can be inferred that there are several cases filed against the kingpin, that is, Nikhil Patil, however, apart from the offence in the present C.R., no other case is registered against the applicant. It is not the case of the prosecution that the applicant is arraigned in any of the offences registered against Nikhil Patil, who is the alleged kingpin, or other alleged members of the organized crime syndicate as a co-accused; nor is it the case of the prosecution that offences have been registered against the applicant individually.

14. In view of the aforesaid, it can be inferred that prima facie there is no material to establish the nexus between the applicant and the organized crime syndicate. It appears that the embargo against release on bail contained in sub-section (4) of Section 21, prima facie may not operate as far as the applicant is concerned.

15. A profitable and useful reference in this context can be made to the judgment of the Supreme Court in the case of *Ranjitsing*

Brahmajeetsing Sharma v. State of Maharashtra and Anr.¹

wherein the approach of the court in a matter of consideration of prayer for bail in the face of the embargo contained in Section 21(4) of the MCOC Act was elucidated. The observations in paragraph 44 are reproduced hereinbelow:

”44] The wording of Section 21(4), in our opinion, does not lead to the conclusion that the Court must arrive at a positive finding that the applicant for bail has not committed an offence under the Act. If such a construction is placed, the court intending to grant bail must arrive at a finding that the applicant has not committed such an offence. In such an event, it will be impossible for the prosecution to obtain a judgment of conviction of the applicant. Such cannot be the intention of the Legislature. Section 21(4) of MCOCA, therefore, must be construed reasonably. It must be so construed that the Court is able to maintain a delicate balance between a judgment of acquittal and conviction and an order granting bail much before commencement of trial. Similarly, the Court will be required to record a finding as to the possibility of his committing a crime after grant of bail. However, such an offence in futuro must be an offence under the Act and not any other offence. Since it is difficult to predict the future conduct of an accused, the court must necessarily consider this aspect of the matter having regard to the antecedents of the accused, his propensities and the nature and manner in which he is alleged to have committed the offence.”

21. Taking into consideration the overall conspectus of the case and the facts and circumstances of the case discussed herein above, I am of the opinion that the applicant has made out a prima facie case for grant of bail coupled with the fact that the Applicant has already undergone more than 4 years of incarceration. Although the charge has been framed, considering the number of witnesses which the prosecution proposes to examine, there are

1 (2005) 5 SCC 294

bleak chances of trial being concluded in near future. The apprehension on the part of the prosecution can be taken care of by imposing appropriate conditions.

Hence, the following order:

ORDER

1] The application is allowed.

2] The applicant, Nikhil Jagtap, be released on bail in MCOC Special Case No. 328 of 2022 arising out of C.R. No. 20 of 2022 registered with Lonikand Division, Pune City, Pune, upon furnishing a P.R. bond in the sum of Rs. 50,000/- with one or two sureties in the like amount to the satisfaction of the Special Judge, Pune.

3] The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

4] The applicant shall furnish his current address and contact number and inform if there is any change in the address and contact number to the Special Judge.

5] The applicant shall regularly attend the proceedings before the MCOCA Special Judge, Pune.

6] The applicant shall not leave the State of Maharashtra without the prior permission of the MCOCA Special Judge, Pune.

7) The Applicant shall deposit the passport, if any, with the MCOC Special Court, Pune and shall not leave the country without prior permission of the Special Court, Pune.

8) The Applicant shall not indulge in any other crime of similar nature. If the applicant is found involved in any other offence/crime, the same will be a ground for the prosecution to make an application for cancellation of bail.

9) It is clarified that the observations made in this order are only for the purpose of entitlement of grant of bail to the applicant and the Trial Court shall proceed further with the matter without being influenced by the observations made in the present order.

(SHREERAM V. SHIRSAT, J.)