Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1588 OF 2026

Nanasaheb Shankarrao Gaikwad .. Applicant
Versus
State of Maharashtra .. Respondent

WITH
INTERIM APPLICATION NO. 1787 OF 2026
IN
BAIL APPLICATION NO. 1588 OF 2026

Muktai Ganesh Gaikwad .. Intervenor
IN THE MATTER BETWEEN
Nanasaheb Shankarrao Gaikwad .. Applicant
Versus
State of Maharashtra .. Respondent

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- Mr. Sudeep Pasbola, Senior Advocate a/w. Mr. Sandeep Salunkhe, Advocate for Applicant.
- Mr. Satish Maneshinde, Senior Advocate i/by Mr. Vishwanath Patil, Advocate for Complainant.
- Ms. Sangeeta E. Phad, APP for Respondent – State.
- API Dhawatle, Crime Branch, Pune present.

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CORAM : MILIND N. JADHAV, J.
DATE : SEPTEMBER 17, 2026.

P.C.:

1. Heard Mr. Pasbola, learned Senior Advocate for Applicant; Mr. Maneshinde, learned Senior Advocate for Complainant and Ms. Phad, learned APP for Respondent – State.

2. This is an Application seeking regular bail filed by Applicant, who is 75 years old and who has been incarcerated for the past more than 2 years in the present crime. The date of arrest of Applicant is 19.08.2021.

3. Applicant is incarcerated in connection with Crime No.777 of 2023, registered with Chaturshrungi Police Station for the offences punishable under Sections 420, 465, 467, 468, 471, 120(B), 34 of the Indian Penal Code, 1860 (for short '**IPC**'); Sections 82 and 83 of Registration Act and Sections 3(1)(ii) and 3(4) of Maharashtra Control of Organized Crime Act, 1999 (for short '**MCOC Act**').

4. Before I advert to the submissions made by the learned Senior Advocates at the bar, since this Bail Application has been vehemently opposed by the Complainant who is the First Informant - Officer of the Pune Municipal Corporation, certain facts are required to be put in perspective.

5. Case of the prosecution is that during the period 15.12.2020 to 30.10.2023, accused persons in the present case who are all family members of Applicant, Applicant being the patriarch of the family have in furtherance of their common intention, hatched a conspiracy and have forged a part Occupation Certificate of the building constructed over Survey No.127/1A to 1E, Plot No.108, Aundh, Pune, the land which was owned by Applicant.

6. Case of the prosecution stems from the fact that the said forged Occupation Certificate was used by Applicant and his family members for leasing the said constructed building to the State Bank of India and pocketing a handsome security deposit as also lease rentals. On these allegations, FIR has been lodged. At the outset, it needs to be noted and stated that Applicant has been incarcerated for the past more than 6 years in continuity and for more than 2 years in the present offence.

7. Mr. Pasbola, learned Senior Advocate for Applicant would submit that Applicant is admittedly the owner of the land and property which was constructed upon through his Architect and Commencement Certificate was issued thereafter and part Occupation Certificate of Ground +1 was received by the concerned Architect. He would submit that Architect thereafter submitted further plans for construction of floor Nos.2 to 6 for which sanction and Occupation Certificate has also been issued.

7.1. He would submit that perusal of the charge-sheet *prima facie* shows that there is no direct or indirect evidence attributable to the role of Applicant in he having procured or fabricated the forged Occupation Certificate. He would submit that there is an inordinate delay, rather unexplained delay of more than 3 years in filing the FIR by Complainant. He would submit that contents as stated in the FIR

registered on 30.10.2023 are contrary to the Complainant's statement recorded on 10.04.2025.

7.2. He would submit that in the FIR, it is stated that on inspection of the Leave and License Agreement executed with the State Bank of India, the officer of the Municipal Corporation came to know about the issue of cheating and forgery but the supplementary statement of the Complainant recorded on 10.04.2025 proceeds on the basis that the said complaint had been filed at the behest of one Mukta Gaikwad, who is the estranged daughter-in-law of Applicant who had made a complaint to the Pune Municipal Corporation.

7.3. He would submit that Applicant's son and daughter-in-law are embroiled in a bitter litigation and within a span of 2 to 3 months in the year 2021, 12 to 13 complaints/criminal reports have been registered against Applicant and his family members.

7.4. On the previous date of hearing, Mr. Pasbola was directed to place on record the antecedents of Applicant. Today, at the time of making further submissions, in all fairness, he has placed on record a chart depicting the details of the 12 antecedents recorded against Applicant under various provisions of the IPC mostly in Chaturshrungi, Hinjewadi and Sangvi Police Stations.

7.5. It is seen that all these reports and complaints are filed in the year 2021 between June 2021 and August 2021. It is argued by Mr.

Pasbola that the precursor to filing of these 10 out of the 12 complaints in a span of 2 to 3 months goes back to the dispute between his son and his estranged wife which is otherwise going on before the Civil Courts and incidentally involved the very property for which the present offence is registered. He would submit that for the offence of alleged tampering and forgery of Occupation Certificate that has been levied against Applicant, offences under the MCOC Act could not and cannot be invoked at all.

7.6. He would submit that in the list of antecedents, there is an offence dated 15.12.2020 which is the only case regarding MCOC offence and there are no other cases whatsoever as far as Applicant is concerned. Therefore, based on that sole case, offences under the MCOC Act MCOC could not be invoked at all. He would submit that Application of the provisions of Section 21(5) cannot be applied to Applicant's case as on the date of offence, more than one charge-sheet was not pending in the preceding 10 years against the Applicant. He would therefore submit that incorrect Application of the provisions of the MCOC Act has been done in the present case.

7.7. In support of his submissions, he would refer to and rely upon the decisions of the Supreme Court in the cases of ***State of Maharashtra Vs. Bharat Shantilal Shah and Ors.***[1] and ***Mahipal Singh***

1 (2008) 13 SCC 5

Vs. Central Bureau of Investigation and Anr.[2]. He would draw my attention to paragraph Nos.62 and 63 of the decision in the case of ***Bharat Shantilal Shah and Ors. (supra)*** with regard to his submission about there being more than one charge-sheet against Applicant pending in the preceding 10 years which is not the case.

7.8. He would next submit that Applicant being 75 years old this Court should consider the entire total length of Applicant's incarceration in prison for a period of over 6 years in continuity as long incarceration and release Applicant on bail.

8. ***PER CONTRA,*** Mr. Maneshinde, learned Senior Advocate appearing for the First Informant/Complainant which is the Pune Municipal Corporation would at the outset draw my attention to the Affidavit-in-Reply dated 01.09.2025 filed by the First Informant appended at page No.919 and make the following submissions:-

8.1. He would submit that Applicant's case should not be considered on the ground of long incarceration at all in view of Applicant having been involved in many offences and therefore no ground whatsoever can be countenanced for release of Applicant on bail. He would submit that two years period of Applicant cannot be considered as long incarceration as Applicant is involved in serious offences committed under MCOC Act.

2 (2014) 11 SCC 282

8.2. He would submit that Applicant is involved in serious cases of land grabbing which is his primary business in Pune and therefore looking at his antecedents, this Court should not be lenient at all in enlarging Applicant on bail, since there is every likelihood that he will re-offend himself, influence and tamper with witnesses as also evidence for his own benefit considering his prowess.

8.3. He would vehemently submit that long incarceration can be considered only if the trial is delayed and on this ground it is the Applicant who is responsible for the delay of his trial. He would submit that Applicant has repeatedly filed Applications before the Trial Court and the latest Application is for seeking discharge. He would submit that before the Trial Court, present case is kept for framing of charge and the Applicant should co-operate with the Trial Court rather than seeking adjournments on one pretext or the other. He would seek to refer to and rely upon the Roznama with regard to his submission of the Applicant delaying the trial.

8.4. Next, he would submit that the offence of 471 IPC is punishable with life imprisonment since Applicant is guilty of cheating a public body of the subject property in question and therefore he cannot seek bail nor be entitled to bail in such cases. Next, he would draw my attention to paragraph No.11 of the Bail Application contending that Applicant has come to the Court with unclean hands

by suppressing his antecedents and therefore on this ground alone Applicant should be denied bail. He would also refer to and rely upon paragraph No.9 in the Affidavit-in-Reply filed by the First Informant as also paragraph No.16 of Affidavit-in-Reply filed by the prosecution which are appended to the Application which *prima facie* show that Applicant has serious antecedents.

8.5. On merits, he would draw my attention to the statement of an independent witness, namely an estate agent which has been recorded by the prosecution, copy of which is appended at page No.362 of the Application to contend that the *modus operandi* followed by Applicant was such that he has cheated a public body like the Municipal Corporation by forging the part Occupation Certificate itself and thereby having used it for generating money when the Corporation had not issued the same.

8.6. Mr. Maneshinde, however in his usual fair-mindedness informed the Court that subsequently the full Occupation Certificate has been duly issued by the Municipal Corporation for the very same building. However, he would submit that even though this fact may otherwise enure to the benefit of Applicant's case, but the fact that Applicant had tampered with and forged a part of the Occupation Certificate granted by the Municipal Corporation previously cannot be wished away and Applicant cannot be exonerated and pardoned for

such an act of cheating and forgery.

8.7. He would vehemently harp upon the fact that when Applicant approached this Court by way of Bail Application, he is required to make true disclosure of his antecedents and he not having made and paragraph No.11 having been kept blank itself shows the demeanor of the Applicant of approaching the Court with unclean hands and attempting to suppress his antecedents. He would submit that an argument is also advanced by Applicant for seeking bail on medical grounds in view of his old age and infirmity of Applicant. However, he would submit that the only material available on record is a medical report which is a prisoner's medical report which was issued six months before and if at all this Court is inclined to even consider this request made by Applicant's Advocate to grant bail on medical grounds, then in that case, a prisoner's medical report to ascertain his current health status in jail is required to be called for by the Court for consideration before determining this Application.

8.8. Finally, while relying upon the decisions of the Supreme Court and the Delhi High Court in the case of ***Jayshree Kanabar Vs. State of Maharashtra and Ors.***[3] and ***Sameer Mahandru Vs. Directorate of Enforcement***[4] he would submit that the twin conditions with regard to satisfaction of the Court that Applicant has not committed the crime

3 (2025) 2 SCC 797
4 2023 SCC OnLine Del. 6680

and that the Applicant will not re-offend himself and present himself for trial are required to be satisfied in the present case. He would submit that these twin conditions are such that looking at the background of Applicant, there is every likelihood that he is bound to re-offend himself and revisit the offences in question.

8.9. On the basis of the aforesaid submissions, he would persuade the Court to reject the Bail Application of Applicant.

9. Ms. Phad, learned Prosecutor for the State has adopted the submissions made by Mr. Maneshinde and in addition thereto would draw my attention to the decision in the case of ***Bharat Shantilal Shah and Ors. (supra)*** referred to by Applicant. She would submit that considering the criminal antecedents of Applicant, the twin conditions are not only required to be satisfied by him, but the applicability of Section 21(4) is clearly made out on the basis of the gravity of the offence as Applicant is an economic offender and he is indicted in serious offences. She would also therefore persuade the Court to reject the Bail Application of Applicant.

10. I have considered the submissions made by the learned Senior Advocates for the respective parties and the submissions have received due consideration.

11. At the outset, I need to clarify that this is a Bail Application and not adjudication of the criminal liability of the Applicant before

me. Applicant is 75 years old. He is indicted for offences of cheating and forgery. First Informant is the Municipal Corporation. Charge is that part Occupation Certificate is forged by the Applicant and on the basis of this forged Occupation Certificate, Applicant executed a Leave and License Agreement with the prospective licensee. To levy such a charge of Applicant having forged the part Occupation Certificate, there has to be direct evidence or at least some indirect evidence of his participation that undoubtedly can be determined at trial since the burden on proof would initially lie on the prosecution. *Prima facie*, there is unexplained delay of more than 3 years in filing the FIR and there is a dichotomy observed in the contents of the FIR registered on 30.10.2023 and the supplementary statement dated 10.04.2025. Insofar as cheating is concerned, that also would be a matter of trial because the role of the Applicant would have to be attributed and proved by the prosecution. More than 2 years have passed and there is no sign of commencement of trial. The vehemence with which the learned Senior Advocate for the Complaint – Corporation has argued the present matter in a dictatorial fashion is not understood by the Court neither it is appreciated by the Court. He has constantly and repeatedly harped upon the antecedents of Applicant to argue that bail should be rejected. This Court is not oblivious to the reason for such hostility and vehemence shown by the Municipal Corporation. It is the very same Municipal Corporation who has subsequently issued a Full

Occupation Certificate with respect to the same building for which the present complaint *qua* a forged Occupation Certificate has been filed. Such double standards of the Corporation cannot be kept under wraps especially in the facts and circumstances of the Applicant's case before me.

12. There is a long running feud between the Applicant and his son on one side and his daughter-in-law on the other side. She has filed an Interim Application No.1787 of 2026 in this Bail Application itself to oppose the bail but has consciously chosen not to appear. Therefore the vehemence of the Corporation who is the First Informant is quite understandable. This Court cannot be shaken by superfluous arguments advanced by the learned Senior Advocate for the Corporation. The job of the Advocates at the bar is to argue their cases in such applications and leave the decision at the discretion of the Court. The Court cannot be dictated as to what should be the final outcome and order at the time of making submissions which is attempted to be done by the learned Senior Advocate for the Corporation.

13. Insofar as the preset case is concerned, I am not at all in agreement with the submissions made by the learned Senior Advocate for the First Informant – Complainant for more than one reason. All that I have to be convinced with is whether the Applicant who has

been incarcerated for more than 2 years will stand to trial and there is a reasonable ground for believing that he is not guilty of the offence. The part Occupation Certificate is not a document which can be procured by a party across the counter. The Architect of the Developer is the intermediary for procuring the same, the question as to who is at fault, who procured it, how it was procured will be answered at trial. Insofar as the issue of re-offending is concerned, Applicant can be put to stringent conditions while on bail and if he commits any infraction of the bail conditions the prosecution can always approach the Court for appropriate orders. The question of expeditious disposal of trials comes to the fore. It is a well settled principle of our criminal law jurisprudence that "bail is the rule and jail is the exception".

14. At this juncture, I deem it appropriate to list certain observations of the Supreme Court shedding light on concerns underlying the "Right to speedy trial" from the point of view of an accused in custody whose liberty is affected. The Supreme Court has held that right to speedy trial flowing from Article 21 encompasses all stages of trial which are inclusive of investigation and there is no reason for courts to take a restricted view. In the case of ***Abdul Rehman Antulay & Ors. Vs R.S. Nayak & Anr.***[5] the Supreme Court held as under:-

5 1992 (1) SCC 225

> *"86. 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.***
>
> *(4) – (11) -------x-------"* *(emphasis supplied)*

15. In the present case, charge-sheet has already been filed for the offences charged. No further custody or custodial interrogation is required. It is *prima facie* seen that 10 out of the 12 offenses registered against the Applicant are within a span of 2 – 3 months in the year 2021, the present is one more such offence which though occurred in 2020 was registered after a hiatus of 3 and half years in 2023. I am of the opinion that issues between parties should not lead the parties to

use criminal proceedings to settle scores.

16. Restricting myself to the offence in question of cheating and forgery, the Applicant being 75 years old and incarcerated for more than 2 years in the present crime and in continuity with the other offences for more than 6 years, investigation being complete in the present offence, chargsheet having been filed, no direct role being attributed to the Applicant as to how he committed the offence of cheating and forgery *qua* the part Occupation Certificate, later issuance of Final Occupation Certificate by the Municipal Corporation for the very same building for obvious reasons despite the Applicant being in custody in order to aid and assist the daughter–in–law of the Applicant, the trial not having commenced and for that mater would take a long time to conclude persuade me to grant the present Bail Application. Neither there is any chance of Applicant absconding since he has deep roots in society and not a flight risk.

17. Hence, in view of above *prima facie* observations and findings, Bail Application of Applicant is allowed subject to the following terms and conditions:-

(i) Applicant – Nanasaheb Shankarrao Gaikwad is directed to be immediately released from prison in connection with CR. No.777 of 2023 unless wanted and required to be kept in jail for any other offence;

(ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or two sureties in the like amount;

(iii) Applicant shall ensure that he shall attend the Trial Court, if called upon by the Court unless specifically exempted. and his Advocate shall remain present on all dates of trial before the Trial Court during trial; Applicant shall not seek unnecessary adjournments. Any such conduct shall entitle the prosecution to apply for cancellation of bail;

(iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(v) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;

(vi) Applicant shall keep the Investigating Officer informed of his current residential address and mobile telephone number and shall forthwith inform the Investigating Officer of any change in his residential address or mobile telephone number, as and when such change occurs; and

(vii) Any breach or infraction of any of the aforesaid conditions shall entail cancellation of the bail granted to the Applicant.

18. It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made hereinabove in this order.

19. Bail Application is allowed and disposed in the above terms.

20. In view of disposal of Bail Application, pending Interim Application No.1787 of 2026 is accordingly disposed.

[MILIND N. JADHAV, J.]

21. After this bail order is pronounced in Court today, Mr. Maneshinde, learned Senior Advocate for the Complainant/First Informant gives an Application on behalf of the Complainant/First Informant seeking stay of the order for a period of four weeks to enable the Complainant/First Informant to approach the Superior Court to test the validity and legality of this order.

22. I have taken that Application which is filed by the Junior Engineer of the Pune Municipal Corporation dated 16.09.2026 and considered the same after going through the same. However, in view of the findings which are returned and rendered by me in my order for grant of bail to the Applicant in the present case, I am not inclined to consider the said Application for stay. The said Application of the Complainant/First Informant seeking stay of my order stands rejected.

[MILIND N. JADHAV, J.]

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