

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3494 OF 2025

Aamir Chinya Aasir Khan

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Sudeep Pasbola, Senior Advocate a/w. Mr. Ayush Pasbola, Mr. Rajan Gurnani, Mr. Nagraj Tarde, Mr. Manthan A. Chaudhari, Advocates for Applicant.
- Ms. Shilpa G. Talhar, APP for Respondent – State.
- API – Shendage, Samarth Police Station, Pune.

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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 17, 2026

P.C.:

1. Heard Mr. Pasbola, learned Senior Advocate for Applicant and Ms. Talhar, learned APP for Respondent – State.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short ‘Cr.P.C.’) seeking Bail in connection with C.R. No.218 of 2023 registered with Samarth Police Station for offences punishable under Sections 302, 307, 326, 341, 506, 120-B, 143, 147, 149 of the Indian Penal Code, 1860; Sections 37(1)(3) read with Section 135 of the Maharashtra Police Act, 1951; Section 7 of Criminal Law Amendment Act, Sections 83(2) of Juvenile Justice (Care and Protection of Children) Act, 2015 and under Sections 3(1)(i)(ii), 3(2) and 3(4) of the Maharashtra Control of Organised Crime Act, 1999 (for short ‘MCOC Act’).

3. Present Application is filed by Applicant seeking enlargement on bail and primarily apart from the merits Mr. Pasbola has argued suspension of sentence on the ground of long incarceration. The Applicant is arrested on 15.03.2024. Charge-sheet has been filed and the case is pending before the Special Court under MCOC Act being Special Case No.716 of 2022. Mr. Pasbola has candidly informed the Court that previous Bail Application preferred by the Applicant was rejected on 11.07.2025. He would submit that there is no possibility of the trial being completed in the near future and that the Applicant is ready to abide stringently to any terms and conditions set by Court for enlargement on bail. He would request the Court to consider that Prosecution case against the Applicant is that he assaulted the victim with a screw driver but there is a clear dichotomy with regard to the witness statements recorded by prosecution to bring home the alleged charges against the Applicant. He would submit that allegation of Applicant assaulting the deceased victim is infact levelled against other accused persons and not the Applicant. He would draw my attention to the statement of the prosecution witness, namely, Ilias Abdul Qureshi, copy of which is appended at page No.298 and contend that it clearly shows that the Applicant had not procured the said screw driver or even assaulted any person in any manner. He would submit that the said statement records that as many as six persons came to the garage and grabbed various mechanical instruments like screw driver, T-bar,

hammer, iron rod which were used to commit assault on the victim. However, he would submit that the said witnesses have not named the Applicant having grabbed or taken the screw driver, which is the case of prosecution for indicting against the Applicant.

4. Next, he would draw attention to the statement of another prosecution witness, Wajid Babu Syed, copy of which is appended at page No.299 and would submit that it states that two co-Accused persons had come to his shop and grabbed the hammer and fled and the said hammer was used in the commission of the crime. He would submit that this prosecution witness also does not name the Applicant. He would vehemently argue that the Applicant has no nexus or connection with the alleged head of the organized crime syndicate or any other member of the alleged organized crime syndicate and there are no common antecedents of other co-accused persons with the Applicant *qua* the alleged organized crime syndicate and, therefore, invocation of provisions under MCOC Act against the Applicant are manifestly erroneous and they are innocuously invoked to book the Applicant. He would submit that Applicant has deep roots in Society and has been residing at his residential address alongwith his family permanently and there is no possibility of he absconding or or not remaining available for trial. He would submit that the Applicant has already undergone 2 years and 5 months of incarceration and the trial of the Applicant is not likely to commence in the near future and

therefore indefinite incarceration of the Applicant would serve no purpose and the Applicant be therefore enlarged on bail with appropriate conditions.

5. *PER CONTRA*, Ms. Talhar has drawn my attention to the Affidavit-in-Reply dated 26.11.2025 filed by the Assistant Commissioner of Police, Faraskhana Division, Pune City appended at page No.626 of the Application and would contend that the deceased victim – Nikhil Sakharam Akhade who was pillion riding with Gaurav Sarwad at about 03:00 p.m. on his scooter were suddenly intercepted by a group of individuals including the Applicant and 5 other identified and 3 – 4 unidentified persons. She would submit that the said Accused persons threatened to kill Nikhil Sakharam Akhade and Complainant who were riding the Vespa and Ramji Gujar and Akash Pailwan co-accused amongst them actively instigated everyone. She would submit that according to prosecution case and eye witness account, Akash Pailwan assaulted the deceased victim - Nikhil Sakharam Akhade with a rod on his head, Ramji Gujar another co-accused assaulted him with a hammer on his head and as Complainant, dismounted from the scooter Amit Patole and Yash Patil, two other co-accused restrained him while the Applicant herein assaulted him on his face and head repeatedly with a screwdriver. She would submit that the said assault with screwdriver by the Applicant resulted in loss of one tooth of the Complainant and several injuries on

his face and head which is borne out from the medical record.

5.1. Eye witness account narrated by Complainant who was accompanying the deceased victim *prima facie* shows that one co-accused Ayush Bidkar thereafter assaulted the deceased victim on his head and body with a screwdriver whereas Ramji Gujar assaulted the Complainant / First Informant with a rod on his head. The said eye witness thereafter states that he ran inside a nearby house belonging to one Priti Gaikwad and at that time blood was oozing out from his face and head. He has stated that he returned to the scene of crime and saw that all the Accused persons including the Applicant were brandishing their weapons and issuing loud threats to all those who were standing and witnessing the incident nearby and at that time Yash Patil and Amir Khan, two of the co-accused persons grabbed the scooter belonging to the victim and fled the scene on the said scooter whereas the remaining assailants left the scene of crime on foot.

5.2. She would submit that prosecution has recorded the statements of 8 eye witnesses to the incident and therefore have made a water-tight case against the Applicant. She would submit that prosecution case is corroborated by the injury certificate of the Complainant / First Informant issued by the Jahangir Hospital and Bharti Vidyapeeth Hospital. She would submit that during the course of investigation all 6 Accused persons were arrested and Investigating

Agency conducted memorandum panchnama of Accused No.6 – Akash Kharat @ Pailwan and seized the weapons used in the commission of the offence namely the iron rod, screwdriver, iron hammer, T-bar and iron steel pipe. She would submit that the Vespa Moped scooter of the deceased – victim which was used by the assailants after commission of offence was also recovered by them. She would heavily rely upon post-mortem report and PM Notes and list of injuries suffered by the deceased – victim and the first informant eyewitness and submit that the offence and crime was outcome of gang rivalry and gang war in order to establish supremacy in the area and was executed with such grievousness that a chilling warning was sent by the assailants to all the persons in the area opposing them by repeatedly stabbing, inflicting wounds and giving repeated blows on the deceased victim – Nikhil Sakharam Akhade and the eyewitness by using iron rod, iron steel pipe, screwdriver, iron hammer and the T-bar.

5.3. She would persuade the Court to consider that the gruesomeness with which the crime was executed was such that Applicant being member of Andekar gang would be a threat to the Society if he is enlarged on bail. She would vehemently submit that the Andekar gang in order to retaliate the murder of gang leader's son namely Vanraj Bandu Andekar committed the murder of the grandson of another gang leader i.e. Ayush Komkar and accordingly offence for the same was registered vide C.R.No.203 of 2025 and investigation is

going on. The offence was committed by Bandu Andekar with the help of other co-accused, like the present Applicant and at present, the said gang leader is in custody.

5.4. She would vehemently submit that releasing the Applicant on bail would give the Andekar gang a fillip to create supremacy, and conspire to commit similar heinous offences in the future, which cannot be ruled out. She would also submit that there is every possibility that the Applicant may also tamper with the witnesses and attempt to influence them and hamper the investigation since he is a known gang member of the Andekar gang.

5.5. She would submit that the Applicant is a habitual offender and has as many as 7 serious antecedents under the Indian Penal Code, 1860, MCOC Act, and Arms Act registered and therefore, present Application be dismissed notwithstanding the fact that the Applicant has spent a substantial sentence even if prayed on the ground of long incarceration. She would persuade the Court to balance convenience *qua* the Applicant's background and the Society at large before releasing the Applicant on bail.

6. I have heard Mr. Pasbola, learned Senior Advocate for Applicant and Ms. Talhar, learned APP for Respondent – State and with their able assistance perused the record of the case. Submissions made by them have received their due consideration.

7. The brief facts need to be placed in perspective before consideration of the present Application. The complaint is lodged by one Aniket D. Dudhbhate, who is also an injured and a victim in this case. He has stated that his friend Nikhil Akhade, the deceased victim, had been to Ambegaon Pathar to meet him. He has stated that he came on his Vespa motorcycle bearing number MH 12 SP 4347. He has stated that at about 4:00 p.m., Accused No.7 who is the Applicant and Nikhil Akhade, the deceased, went to Nana Peth, Pune, to meet the wife of Somnath Gaikwad, namely Preeti. He has stated that both of them reached the house of Preeti and at about 4:00 p.m. they were returning to their home. He has stated that Nikhil was driving his motorcycle, and when they reached Shitladevi Mitra Mandal Chowk, their vehicle was intercepted by Ramji Gujar, Akash Pawal, Amit Pathole, Ramesh Patil, Ayush Bidkar, Aamir Pathan, and 3 to 4 unknown persons. He has stated that the said persons threatened them and with an iron rod struck on the head of Nikhil Akhade. He has stated that Ramji Gujar and Akash Pailwan threatened the deceased Nikhil Akhade and inflicted a blow with an iron rod and hammer on his head.

8. He has categorically stated that the Applicant Aamir China Aasir Khan, who is the Applicant before Court also assaulted him with a screwdriver, causing an injury on his face and his tooth was broken. He has stated that the Applicant thereafter assaulted him by the

screwdriver on his head and back and he suffered injuries. He has stated that all other Accused thereafter displayed their weapons and created terror by shouting loudly that nobody should interfere and mess with the Andekar gang and that Bandu Andekar is the father of all in Pune. He also submitted that thereafter the Applicant and Yash took the Vespa motorcycle belonging to the deceased Nikhil and fled away from the scene of crime which *prima facie* would mean that present Applicant had tipped the other gang members about the movement of Nikhil Akhade the deceased.

9. The aforesaid incident that has occurred is unfortunately due to rivalry between two gangs in order to showcase their supremacy against each other. This is what the prosecution investigation has revealed. The Informant and injured alongwith deceased belongs to the rival gang and the Accused / Applicant and other co-accused are members of the Bandu Andekar gang. Both these gangs are active in Pune region and have left no stone unturned for showcasing their supremacy over each other by eliminating members from rival gangs. The investigation has revealed that grandson of Bandu Andekar was murdered by the gang controlled by the deceased - Nikhil Akhade's gang and therefore, the attack on Nikhil Akhade was carried out in retaliation. In so far as Applicant is concerned, he was arrested after a few months from Jalgaon and from his search, a pistol and live cartridges were recovered for which a separate crime is registered

against him in Jalgaon.

10. Case of the Applicant is that he has been falsely implicated and he was not present at the spot. However, this cannot be countenanced when there is overwhelming *prima facie* statement made by the First Informant as well as others with regard to he not only being present on the spot but he having assaulted by the screwdriver whose dimensions are also stated by the prosecution to be a long screwdriver in inflicting injury on the face, head and neck of the injured victims. Further if statement of first informant is to be believed, then interception of deceased by the Accused persons may possibly be done by the Applicant having tipped them about his movement.

11. Though Mr. Pasbola has vehemently argued that no test identification parade of the Applicant was conducted and therefore, there is no confirmation of whether the Applicant was present during the scene of crime which can be verified from the CCTV footage, I am not inclined to accept the same for the simple reason that the Applicant has been categorically indicted for having used a screwdriver to inflict blows and cause terror alongwith the other co-accused persons by eyewitnesses. What is intriguing is that injury caused by a screwdriver is a pointed-puncture injury, which can go deep into the body and injure and damage the internal body parts carrying grievous hurt.

12. The antecedents against Applicant are on record and same are delineated below for immediate reference as placed by Ms. Talhar:-

Sr.Nos.	C.R.Nos.	Sections	Status
1.	256/2021 Bibwewadi Police Station,Pune City	Sections 307, 141, 143, 147, 148, 149, 427, 506 (2) of the Indian Penal Code, 1860, Section 4(25) of the Arms Act, Section 37(1)(3), 135 Criminal Law Amendment Sections 3 and 7.	Court Pending
2.	1032/2022 Kondhwa Police Station, Pune City	Sections 387 of the Indian Penal Code, 1860, Section 506(2), 504 of the Arms Act, 4(25) of MCOC Act.	Court Pending
3.	673/2021 Kondhwa Police Station, Pune City	Sections 367, 326, 323, 504, 34 of the Indian Penal Code, 1860, Sections 37(1), 135 of MCOC Act.	Court Pending
4.	22/2011 Kondhwa Police Station, Pune City	Sections 326, 323, 425, 504, 506 of the Indian Penal Code, 1860 and Section 4(25) of the Arms Act and Sections 37(1) (3), 135 of MCOC Act.	Court Pending
5.	353/2021 Kondhwa Police Station, Pune City	Sections 323, 324, 504 read with Section 34 of the Indian Penal Code, 1860 and Section 4(25) of the Arms Act and Sections 37(1)(3), 135 of MCOC Act.	Court Pending
6.	1092/2022 Kondhwa Police Station, Pune City	Sections 323, 324, 504 read with Section 34 of the Indian Penal Code, 1860.	Court Pending
7.	110/2024 Chalisgaon City Police Station, Jalgaon	Sections 3(25) of Arms Act and Section 34 of the Indian Penal Code, 1860 and Sections 37(1) (3) read with Section 135 of the MCOC Act	Court Pending

13. Mr. Pasbola would submit that the role of the Applicant is limited to Section 307 of the Indian Penal Code, 1860. What is crucial is the fact that the interception by the Accused persons was with a clear notion of committing the murder of the deceased victim – Nikhil Sakharam Akhade and this is clearly evident from their conduct after inflicting the blows with the weapons on the deceased - victim and the injured victims with fatality in mind and thereafter terrorizing the Society at large by brandishing weapons openly. In a Society and State like ours this cannot be permitted where Rule of Law exists and is supreme. Injury Certificates *prima facie* also give credence to the prosecution case. The victim assaulted by the screwdriver have given a first-account version as eyewitness from which it is very clear that the role of the Applicant was not to scare the Informant and the victim but to eliminate them. Further, the Applicant's role of fleeing away from the scene of crime by grabbing the motorcycle belonging to the deceased - victim also shows his common intention to commit the crime. Therefore in my opinion, each and every Accused is liable for the said heinous act which has been committed by them to terrorize the Society at large. I am unable to therefore accept the submissions made by Mr. Pasbola that the Applicant's role is confined only to the extent of Section 307 of the Indian Penal Code, 1860, as that would be a subject matter of trial. The incident in question leading to the fatal death of the deceased - victim is an outcome of gang war. Applicant's

role and weapon is clearly defined and attributed. Subsequent arrest of Applicant alongwith the pistol and live cartridges, itself shows the demeanor of the Applicant to not follow the law and therefore, I am not inclined to consider the request made by Mr. Pasbola, either on merits or even otherwise, on the ground of long incarceration of the Applicant having spent 2 years and 5 months in his incarceration as releasing such Applicant would be a menace and threat to the Society at large.

14. Considering the gravity and the gruesomeness with which the deceased was killed by the Accused persons and the injured victims have been assaulted including the Applicant, and the humongous number of injuries suffered by the deceased victim on his entire body bear testimony to that fact. The Application of the Applicant is therefore rejected.

15. Bail Application is dismissed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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