



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 261 OF 2025

Munjaji alias Gabya s/o Balaji Dhongade,
Age : 23 years, Occupation : Labour,
R/o : Old Kautha, Nanded. ... Applicant

Versus

The State of Maharashtra
(At the instance of
Itwara Police Station, Nanded) ... Respondent

**WITH
BAIL APPLICATION NO. 264 OF 2025**

Gangadhar s/o Ashok Bhokre,
Age : 27 years, Occupation : Labour,
R/o : Old Kautha, Nanded ... Applicant

Versus

The State of Maharashtra
(At the instance of
Itwara Police Station, Nanded) ... Respondent

.....

Mr. Abhaysinh K. Bhosle, Advocate for Both Applicants.
Mr. S. B. Narwade, APP for Respondent-State in both Applications.

.....

CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 07.03.2025

Pronounced on : 11.03.2025

ORDER :

1. Both above applicants seek grant of regular bail on the ground of their arrest in Crime No. 0176 of 2021 registered with Itwara Police Station, District Nanded for offences punishable under Sections

302, 307, 120(B), 294, 107, 143, 147, 148, 149 of the Indian Penal Code [IPC], Sections 3/25, 4/25 and 27 of the Arms Act and Sections 3(1)(i)(ii), 3(2) and 3(4) of the The Maharashtra Control of Organised Crime Act, 1999.

2. Learned counsel representing both the applicants pointed out that date of arrest of the applicants is 29.07.2021 and 01.09.2021 respectively. Learned counsel, at the threshold, claimed that present applications are moved on the sole ground of parity as, according to him, co-accused against whom there are allegations of overt act, are already beneficiaries of bail. That, roles of the applicants are of lesser gravity than such accused, but still they are behind bars. That, investigation is over and charge sheet was filed on 27.12.2021 itself. That, charge is not yet framed and therefore, when sessions proceedings itself are uncertain, according to him, it amounts to long pre trial incarceration and for all above reasons, he claims grant of bail.

3. Learned APP strongly opposed on the ground that applicants are members of a syndicate which is involved in committing various crimes, including those under MCOC Act. That, in the FIR, present applicants are named. According to learned APP, roles defined to

present applicants cannot be said to be of lesser severity than the roles attributed to other accused who are granted bail. He also expressed apprehension of misuse of liberty, or indulging in further crime if liberty as prayed is granted. According to him, it was a team effort in committing murder as well as attempting to commit murder after hatching criminal conspiracy. That, there is use of deadly weapons and for all above reasons, learned APP opposed above application.

4. Heard. Perused the papers. FIR at the instance of one Suraj Bhagwan Khiradi is apparently of 20.07.2021. Substance of the same is that, in the backdrop of previous enmity, Kailash Bighaniya, Nitin Bighaniya, his wife Anjali and sister Jyoti Bighaniya, Digambar Kakade, Laxman @ Lucky More, Krishna @ Kinna Pardeshi, Gangadhar and Munjaji (present applicants), Somesh Katte and Mayuresh Katte hatched criminal conspiracy, and on 20.07.2021 around 7.30 p.m., all accused except Anjali, Jyoti and Kailash, fired on informant and Vicky Thakur and also used sword in assaulting Vicky Thakur and killed him. On above report, police seem to have registered crime no. 176 of 2021 for above offences.

5. Present applicants are apparently shown as accused nos. 5 and 6 and they are shown to be arrested on 29.07.2021 and 01.09.2021

respectively. Thus, apparently they are behind bars since almost four years. Present applications are on the sole ground of parity as other accused, against whom there are primary allegations, are already granted bail and moreover, already charge sheet is filed.

6. Learned counsel for the applicants took this Court through the summary of the charge sheet and read out the accusations as regards both the present applicants, as well as the main accused Krishna Pardeshi (accused no.4) and Somesh Katte (accused no.7).

As regards applicant Munjaji is concerned, chargesheet carries allegations that he conspired with main accused Nitin, brought him to the spot of incident on his SP Shine motorcycle, instigated him and also helped him in fleeing from the spot after the incident.

Charge sheet carries accusations against applicant Gangadhar that he also conspired with main accused Nitin, took money from him on the say of accused Kailash, bought firearms and supplied it to Nitin, and helped him executing assault.

7. Apparently, similarly situated co-accused Somesh and Mayuresh (accused nos. 7 and 8) are granted bail by this court by order dated 23.10.2024 in Bail Application Nos. 1882 and 1897 of

2024. Even co-accused Krishna, against whom there are allegations of putting *khanjar* (sharp weapon) to use in assaulting deceased, is also beneficiary of bail by this Court by order dated 26.09.2024 in Bail Application No. 840 of 2024.

8. On comparing the accusations against co-accused who are beneficiaries of bail and the allegations surfacing on completion of investigation against the present applicants, as submitted, ground of parity comes into picture.

9. On Court query as to what is the progress of trial, learned APP merely submitted that it has reached the stage of framing charge. Charge sheet shows that prosecution is intending to examine as many as 59 witnesses. Thus, it is clear that when charge is also not framed, definitely much more time would be required for conclusion of trial. Applicants are already behind bars since almost four years. Therefore, on the ground of parity, and in the light of nature of accusations regarding helping main accused to carry out assault and to flee from the spot on motorcycle, applicants also succeed. Hence, I proceed to pass the following order:

ORDER

I. Both the applications are allowed.

II. Applicants Munjaji alias Gabya s/o Balaji Dhongade and Gangadhar s/o Ashok Bhokre be released on bail in connection with Crime No. 0176 of 2021 registered with Itwara Police Station, District Nanded, on executing Personal Bond of Rs. 50,000/- (Rupees Fifty Thousand only) each with one surety in the like amount by each, on the following conditions:

- [a] The applicants shall not tamper prosecution evidence.
- [b] The applicants shall not enter the vicinity where the informant and his family members reside, till conclusion of trial.
- [c] The applicants shall not leave the area of jurisdiction of the concerned police station till conclusion of trial.
- [d] The applicants shall attend the concerned police station three times in every week i.e. on every Monday, Wednesday and Friday and maintain personal diary of their attendance, till conclusion of trial.
- [e] The applicants shall also regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]

vre